



To enrich lives through effective and caring service



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 17, 2008

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director *Stan Wisniewski*

SUBJECT: **COMMISSION AGENDA** – January 23, 2008 Meeting

Enclosed is the Agenda for the January 23, 2008 meeting. Also enclosed are the minutes for your Commission's December 12, 2007 meeting. In addition, please find the reports related to Agenda Items 3a, 3b, 4a, 4b, 5a, and 6a.

The Election of Commission Officers is included as item 5b on your agenda, pursuant to Chapter III, Section 8, of the Small Craft Harbor Commission Rules, which states, "At its January meeting, the Commission shall elect both a Chairman and a Vice-Chairman to serve until the next January regular meeting."

Please feel free to call me at (310) 305-9522 if you have any questions or need additional information.

SW:rf

Enclosures



To enrich lives through effective and caring service



SMALL CRAFT HARBOR COMMISSION AGENDA

January 23, 2008
9:30 a.m.

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

**BURTON W. CHACE PARK COMMUNITY ROOM
13650 MINDANAO WAY
MARINA DEL REY, CA. 90292**

1. Call to Order and Pledge of Allegiance
2. Approval of Minutes: December 12, 2007 Meeting
3. REGULAR REPORTS
 - a. Marina Sheriff
 - Crime Statistics
 - Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance

(DISCUSS REPORTS)

- b. Marina del Rey and Beach Special Events

(PRESENTATION BY
DUSTY CRANE,
DIVISION CHIEF, COMMUNITY
AND MARKETING SERVICES)

- c. Marina del Rey Convention and Visitors Bureau

(PRESENTATION BY
BEVERLY MOORE,
EXECUTIVE DIRECTOR
OF MdR CVB)

4. OLD BUSINESS

- a. Parcel 21 (Holiday Harbor) - Approval of Option for Amended and Restated Lease to Facilitate Redevelopment
 - b. Parcel 20 (Panay Way Marina) - Approval of Amendment No. 12 to Lease No. 6684 to Modify Redevelopment Work and Leasehold Area

(RECOMMEND TO BOARD
OF SUPERVISORS)

(RECOMMEND TO BOARD
OF SUPERVISORS)

5. NEW BUSINESS

- a. Parcel 10R (Neptune) and Parcel FF (Parking Lot 12) -
Approval of Option to Amend Lease Agreement and
Lease Option Agreement to Facilitate Redevelopment (RECOMMEND TO BOARD
OF SUPERVISORS)
- b. Election of Officers (ACTION REQUIRED)

6. STAFF REPORTS

- a. Ongoing Activities (DISCUSS REPORT)
- Board Actions on Items Relating to Marina del Rey
- Local Coastal Program Periodic Review – Update
- Report on Foundation Allegation Regarding Parcel 12 (Esprit I)
- Regional Planning Commission's Calendar
- b. Children's W.A.T.E.R. Program (PRESENTATION BY
DUSTY CRANE,
DIVISION CHIEF, COMMUNITY
AND MARKETING SERVICES)

7. COMMUNICATION FROM THE PUBLIC

8. ADJOURNMENT

PLEASE NOTE:

1. The Los Angeles County Board of Supervisors adopted Chapter 2.160 of the Los Angeles Code (Ord. 93-0031 § 2 (part), 1993), relating to lobbyists. Any person who seeks support or endorsement from the Small Craft Harbor Commission on any official action must certify that he/she is familiar with the requirements of this ordinance. A copy of the ordinance can be provided prior to the meeting and certification is to be made before or at the meeting.
2. The agenda will be posted on the Internet and displayed at the following locations at least 72 hours preceding the meeting date:

Department of Beaches and Harbors' Website Address: <http://marinadelrey.lacounty.gov>

Department of Beaches and Harbors
Administration Building
13837 Fiji Way
Marina del Rey, CA 90292

MdR Visitors & Information Center
4701 Admiralty Way
Marina del Rey, CA 90292

Burton Chace Park Community Room
13650 Mindanao Way
Marina del Rey, CA 90292

Lloyd Taber-Marina del Rey Library
4533 Admiralty Way
Marina del Rey, CA 90292

Si necesita asistencia para interpretar esta informacion llame al (310) 305-9547.

ADA ACCOMMODATIONS: If you require reasonable accommodations or auxillary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disabilities Act) Coordinator at (310) 305-9590 (Voice) or (310) 821-1734 (TDD).

**SMALL CRAFT HARBOR COMMISSION
MINUTES
December 12, 2007**

Commissioners Present

Harley Searcy, Chairman; Russ Lesser, Vice-Chairman; Albert Landini, Ed.D;
Christopher Chuang-Lin, PhD

Commissioners Absent

Vanessa Delgado, MPA

Department of Beaches and Harbors

Stan Wisniewski, Director; Santos Kreimann, Deputy Director

County Staff

Thomas Faughnan, Principal Deputy County Counsel; Dusty Crane, Community and Marketing Division; Beverly Moore, MdR Convention and Visitors Bureau; Lt. Brookwell and Deputy John Rochford from the Sheriff's Department

CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting to order at 9:40 a.m. The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Searcy opened the floor to public comments.

Tim Riley stated the October minutes reflected a misleading statement attributed to him about price gouging. He clarified his statement by stating there is no price gouging in MdR.

Nancy Vernon Marino stated there should be more substance to the minutes.

John Rizzo commented the November minutes should reflect that the County is being defrauded \$100 million dollars per year.

Motion was made by Chairman Searcy and Seconded by Vice Chairman Lesser to approve the August 2007, October 2007 and November 2007 minutes with the provision that John Rizzo submits a paragraph to be incorporated into the November, 2007 minutes. This motion was unanimously approved.

REGULAR REPORTS

ITEM 3a: Marina Sheriff – Crime Statistics

Lt. Brookwell reported about an increase in residential burglaries, and advised residents to keep doors locked. In addition, there were no incidents during the boat parade.

Deputy Rochford stated the Sheriff's Department continues to get boat renewals, and followed up on evictions.

Chairman Searcy opened the floor to public comments.

Nancy Vernon Marino asked for clarification on report titles for the number of evictions and suggested improvements to the report format to reduce the 3-page report into one page.

ITEM 3b: Marina del Rey and Beach Special Events

Dusty Crane thanked the MdR Holiday Boat Parade Committee for their fine work, mentioned there is a list of concerts that will be held at Fisherman's Village, and announced a fireworks show would be held on New Year's Eve.

Chairman Searcy opened the floor to public comments.

Ms. Marino commented on the impact of fireworks on the environment and marine life.

Chairman Searcy commented on a letter Donald Klein wrote regarding Marina del Rey Hotel Anchorage. Mr. Klein commended the anchorage staff on their excellent management style, and how valuable the monthly boater educational seminars are.

ITEM 3c: Marina del Rey Convention and Visitors Bureau

Ms. Beverly Moore, Director of Marina del Rey Convention and Visitor's Bureau, explained she recently returned from a meeting in Sacramento. In Sacramento, Ms. Moore met with meeting planners from state government organizations. Last month, the Marina del Rey Convention and Visitors Bureau hosted travel writers.

Chairman Searcy opened the floor to public comments

Ms. Marino commented on securing a large meeting hall in MdR for the California Coastal Commission meeting in January. Mr. Wisniewski indicated the meeting venue is not a County decision and suggested that members of the public contact the California Coastal Commission to find a suitable meeting hall.

OLD BUSINESS

Item 4a: Proposed Letter to Board of Supervisors Regarding Boat Slip Rental Rate Increase

Chairman Searcy explained he drafted a letter based on public input and was seeking additional public input at the meeting in order to transmit the letter to the Board of Supervisors.

Chairman Searcy opened the floor to public comments.

Mr. David Barish commented that the 2004 Williams-Kuebelbeck & Associates study was used in a prior submission to the California Coastal Commission and should, therefore, be released to the public. Mr. Faughnan was not aware the study was distributed, and will investigate. Mr. Barish also spoke about requesting an independent study for boat slip rates.

Ms. Ina Barish made remarks pertaining to the last paragraph of the draft letter.

Ms. Carla Andrus stated she is wasting her time at these meetings, and the process is defunct.

Mr. Wisniewski commented the meetings are held in a public forum, and all parties are entitled to voice their opinions, including disagreements.

Ms. Marino objected to the letter, and engaged Chairman Searcy in dialogue about various portions of the draft letter.

Mr. John Nahhas submitted a spreadsheet he created which contained pricing and amenity data of the various anchorages in MdR. The data in Mr. Nahhas' spreadsheet demonstrated the boat slip rents in MdR are lower than rates listed in the Department's boat slip study. Mr. Nahhas commented on the draft letter.

Mr. Rizzo echoed Ms. Andrus' sentiments, and suggested that the Commission should have an ongoing dialogue with the Board of Supervisors and that Chairman Searcy should put forth a firm recommendation on behalf of the people.

Mr. Ganary commented about the letter, and suggested having independent property valuations and audits of the MdR parcels.

Mr. David Levine, President of the Marina del Rey Lessee's Association, asked that the letter include a reference to the fact that a mediation process is available if tenants believe they have been overcharged. In addition, if a tenant has been evicted because of public comments that were made, there may be legal recourse for the tenant. Mr. Levine concluded that slip rates charged in MdR are not out of line with slip rates charged elsewhere.

Mr. Jun Yang requested public access to individual slip rental receipts, so that the public can review the numbers.

Mr. Wisniewski replied there is already a monthly gross income receipt report that the lessees submit, and it is open for public review. In addition, the lessees are audited on a rotating basis.

Commissioner Landini stated he could accept Chairman Searcy's letter with changes. A discussion followed covering the use of words such as 'subsidize', 'cost recovery', and other elements of the draft letter between the Commissioners, representatives of the Department, and the public.

Commissioner Landini motioned, seconded by Chairman Searcy, motion unanimously approved to accept the letter with the following changes;

- first paragraph, last sentence – "...small craft boating is beginning to disappear from Marina Del Rey"
- 2nd paragraph, 3rd sentence – change "feel" to "think"
- Last sentence on first page – "members of the public repeatedly took issue with county rent surveys which they think use an inadequate survey methodology and do not appropriately differentiate..."
- Last paragraph on the last page – "While we understand the desire for less expensive slip rents, we have determined that Marina del Rey slip rates are well within the range of rates at other Southern California Harbors. The Department of Beaches and Harbors continues to monitor the slip rental market and we do not recommend any change in current Board policy which the Department is implementing. Nevertheless, the public is requesting the following:
 - A. Independent audit of slip rental fees and practices.
 - B. Development of a slip rental program on a cost recovery basis.
 - C. An examination of the county economic policy of 'fair market price rates' verses 'fair return on investment'.

{The final executed letter transmitted to the Board of Supervisors which reflects the agreed upon changes is attached to the Minutes as Exhibit 1.}

5. NEW BUSINESS**Item 5a: Parcel 27R (Jamaica Bay Inn) - Approval of Renewal of Option to Amend Lease No. 6573**

This is an extension of time to lessee's previously approved option for lease amendment for redevelopment and expansion of Jamaica Bay Inn on Parcel 27R so the lessee can secure all entitlements.

Chairman Searcy opened the floor to public comments.

Ms. Marino commented on corruption and disruption of the view this project will cause. Ms. Marino recommends rejection.

Ms. Andrus commented on the delay of the developer to secure proper entitlements in a timely fashion.

Mr. Wisniewski responded the lessee was delayed by various government agencies through no fault of the lessee.

Mr. Barish asked why the reasons for the delays were not in the report.
Mrs. Barish commented on the contractual dates and delay of this project.

Mr. Faughnan stated the delay the lessee experienced in securing the entitlements was due in part to the Admiralty Way widening project.

Mr. Rizzo commented he did not see anything in the lease pertaining to price control.

Mr. Wisniewski spoke about 'baseball arbitration' in new leases, and how this would work in favor of the County.

Motion to approve by Commissioner Landini and Seconded by Chairman Searcy was unanimously approved.

Item 5b: Parcel OT (Parking Lot) [Future Parcel 147] – Approval of Option for Lease to Facilitate Redevelopment

Item 5b pertains to an option to lease Parcel OT (parking lot) (Future Parcel 147), in order to facilitate development of a seniors-only retirement residence with 5,000 square feet of retail space.

Commissioner Searcy asked if the proposed retirement residence is a market rate facility, and if there will be any affordable housing component to this project.

Mr. Faughnan stated Regional Planning is reviewing if this project would be subject to any affordable housing requirements.

Commissioner Landini asked if the project can be changed to non-senior market rate units in the future. Mr. Wisniewski replied such a change would be a violation of the lease.

Chairman Searcy opened the floor to public comments.

Mr. Barish commented on public parking and stated the development is not allowed.

Mrs. Barish spoke about the DCB ruling for this project, and played an excerpt of the tape from the meeting.

Commissioner Landini commented these are Regional Planning issues.

Ms. Marino spoke about the need for a master EIR.

Commissioner Landini indicated the Board of Supervisors has to initiate any changes in the Master Plan.

Ms. Andrus questioned why G&K was invited to participate in senior housing, since board and care is already zoned on Parcel 18. She also commented on the elimination of boat slips.

Commissioner Landini asked how the need for a senior residence was determined.

The applicant came forward and explained they determined the MdR area has a need for a high-end senior facility. In this project, 75% of the monthly payment is for services to the residents. The development will be a residential hotel, with central dining facilities. The applicant also explained that all parking spaces currently on parcel OT will be replaced with new parking spaces.

Vice Chairman Lesser moved and Chairman Searcy seconded a motion to approve Item 5B with the condition that eliminates the Director of the Department of Beaches and Harbors discretion to apply to the California Coastal Commission for the reduction of replacement public parking. The motion was unanimously approved.

Item 5c: Parcel 21 (Holiday Harbor) – Approval of Option for Amended and Restated Lease to Facilitate Redevelopment

Item 5c pertains to an option to extend the Parcel 21 (Holiday Harbor) lease, in order to facilitate development of a new marina and a parking structure for 447 cars that also contains 29,000 square feet of commercial space.

Commissioner Landini moved and Vice Chairman Lesser seconded a motion to carry over Item 5c of the agenda to the next meeting. This motion was unanimously approved.

Chairman Searcy opened the floor to public comments.

Ms. Marino commented that Parcel OT had no notice of the scoping meeting on the property, notification was not sent out to interested parties, and there are regional planning issues with the project.

Commissioner Lesser asked for information on the scoping meeting.

Ms. Andrus suggested to the Commissioners to request a tape of the meeting, as well as suggesting other uses for parcel 21.

Mr. Yang spoke about keeping as many boat slips in the marina as possible.

Item 5d: Parcel 20 (Panay Way Marina) – Approval of Amendment No. 12 to Lease No. 6684 to Modify Redevelopment Work and Leasehold Area.

No public comment will be taken on Item 5d.

Vice Chairman Lesser moved and Chairman Searcy seconded a motion to carry over Item 5d of the agenda to the next meeting. This motion was unanimously approved.

Item 6a: Ongoing Activities

Mr. Wisniewski suggested due to the late hour, the report be received and filed. Mr. Wisniewski offered to answer any questions from the Commission and the public.

Chairman Searcy opened the floor to public comments.

Ms. Andrus commented Archstone and Capri are not at full occupancy due to high rents.

Mr. Bill Vreszk spoke about the legality and morality of unjust evictions.

Ms. Marino commented on the advertising of Capri. She also asked a series of questions: 1. Are any of the buildings at Esprit 1 sinking beyond the normal parameters? 2. Does water go into the lower level garages in any of the buildings at Esprit 1 during high tide? Ms. Marino asked the SCHC to place on their January agenda a review of the building engineer's recent reports on the safety and stability of the buildings of Esprit 1.

Mrs. Barish stated the negative public perception about Beaches and Harbors was not limited to Marina del Rey. She played a tape of Commissioner Burke, of the California Coastal Commission, stating his unflattering personal view about the Director of Beaches and Harbors.

Mr. Nahhas spoke about reduced boat slips, land values, re-development, and separation of classes.

ADJOURNMENT

Chairman Searcy adjourned the meeting at 1:00 p.m.

Respectfully submitted by:

R. L. Frisch
on behalf of the Commission Secretary

EXHIBIT 1



COUNTY OF LOS ANGELES

SMALL CRAFT HARBOR COMMISSION

(310) 305-9527



Harley A. Searcy, Chairman
Russ Lesser, Vice-Chairman
Vanessa Delgado
Albert Landini
Dr. Christopher Chuang-I Lin

December 19, 2007

TO: Each Supervisor

FROM: Harley A. Searcy, Chairman *HAS*
Small Craft Harbor Commission
Marina del Rey

SUBJECT: MARINA DEL REY COMMUNITY CONCERNS OVER BOAT SLIP RATE INCREASES AND MAINTENANCE OF BOATER-RELATED FACILITIES

For the past several months, the Small Craft Harbor Commission (SCHC) has heard considerable public testimony from a number of seriously concerned and indignant boat slip tenants, other boat owners and concerned County residents regarding the trends of recent boat slip rental rate increases and the conditions of some boater-related facilities on private leaseholds. Testimony has been given from outraged tenants fearful that low-cost recreational small craft boating is beginning to disappear from Marina del Rey.

This testimony and public input, while providing an opportunity for the public to be heard and present evidence, has disclosed that many local Marina del Rey boaters strongly think the concept of "fair market price/rates" the County of Los Angeles allows Lessees to charge is a flawed concept that must be re-examined in light of the real marketplace. Repeatedly, members of the public raised the issue of "fair return on investment" versus "fair market price/rates". A statement by Michigan State University professor Dr. Ed Mahoney, Co-Director of the Recreational Marine Research Center, was read into the record which stated his opinion that there is no way to calculate a fair market price when it comes to marina slip pricing and that often it is simply the estimate of "willingness to pay" made by marina operators.

The Mariners Bay (Parcel 28) Lessee's recent implementation of up to 50% increases in its boat slip rates has upset many boaters and served as an example and focal point for organized protests at recent SCHC meetings. While a 50% one time increase is onerous, one slip tenant's rental history shows his rent has increased an average of 7.8% per year since he began his occupancy of the slip and his new rent is still 11% less than the average slip rent in Southern California.

Extremely upset members of the public repeatedly took issue with County rent surveys which they think uses an inadequate survey methodology and does not appropriately differentiate dock conditions, amenities provided, and public vs. for-profit facilities. The

Mariners Bay and Pler 44 (Parcel 44) leaseholds were presented by members of the public as examples of price gouging and deficient boat facilities. Community members have requested independent audits of slip fees and practices.

Although this Commission is sympathetic to these concerns, it is noteworthy that the issue of whether Lessees should be permitted to charge rates that yield either a "fair return on investment" or "fair market price/rates" is a policy determination made by the Board of Supervisors. Currently, the County policy determination is that Lessees are permitted to charge "fair market price/rates", and return on investment will only be considered where it is determined that prices are over-market. In this regard, the Department of Beaches and Harbors routinely conducts a survey of slip rental rates comparing the prevailing rates in Marina del Rey with other marinas located within 60 miles of Marina del Rey. In a current survey, based on the concept of "fair market price/rates", these comparisons did not find any incidences of price gouging in Marina del Rey, and no further analysis of return on investment was determined to be necessary. A copy of the most recent survey is attached.

It has been requested by members of the public that the Board of Supervisors re-examine its policy on pricing in Marina del Rey. SCHC Commissioner Al Landini proposed having the County consider assuming control of the privately-owned docks in the Marina and having some of the boat slips in Marina del Rey treated to some lesser standard than maximizing rents under the fair market model. Commissioner Russ Lesser disagreed, believing that whether building new slips or operating old slips, it would cost the County more than it does a private lessee. Moreover, Commissioner Lesser felt that unless County policy is changed, Lessees in Marina del Rey should be encouraged to keep slip rental rates comparable to other marinas.

Regarding the condition of boater facilities, the Commission is ensuring that the Department of Beaches and Harbors reviews all maintenance complaints. Significant new staffing attention has been dedicated to enforcing leasehold premises maintenance since the beginning of 2007. While conditions still need to improve, Lessees have responded positively with improved maintenance, which the Department expects will continue. Additionally, newly negotiated leases contain a provision allowing the County to assess liquidated damages of \$100 per item per day for deficiencies that are not cured within the prescribed time for repair.

The subject of Marina del Rey boat slip rental rates was agendaized for public discussion at our meetings of July 11, August 8, October 11, and November 14, 2007. Thirty-two different individuals spoke on this agenda item at one or more of these meetings, in opposition to current Board policy regarding slip rental rates. Some but not all of these speakers are among the approximately 4,560 slip tenants here in Marina del Rey.

Each Supervisor
December 19, 2007
Page 3

While we understand the desire for less expensive slip rents, we have determined that Marina del Rey slip rates are well within the range of rates at other Southern California harbors. The Department of Beaches and Harbors continues to monitor the slip rental market and we do not recommend any change in current Board policy which the Department is implementing. Nevertheless, the public is requesting an independent audit of the slip rental rates, development of a slip rental program on a cost recovery basis, and an examination of the County economic policy of 'fair market price rates' vs. 'fair return on investment'.

HAS:rf

Attachment

c: Chief Executive Officer
County Counsel

Survey of Slip Rental Rates in Marina del Rey - September 2007

SLIP SIZE

Parcel #	ANCHORAGE	25'		30'		35'		40'		45'		60'	
		Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot
15	Bar Harbor Marina	\$294	\$11.75	\$383	\$12.76	\$516	\$14.75	\$680	\$16.50	\$876	\$19.50	\$938	\$18.76
8	Bay Club Apts Marina			\$380	\$12.86	\$495	\$14.14	\$638	\$15.95	\$765	\$10.90		
132	California Yacht Club	\$280	\$11.45	\$419	\$13.95	\$804	\$17.25	\$799	\$19.95	\$898	\$18.95	\$1,083	\$21.86
41	Castelline Yacht	\$200	\$8.00	\$300	\$10.00	\$388	\$10.50						
30	Del Rey Club			\$225	\$7.51	\$322	\$9.21	\$382	\$9.55	\$444	\$9.87	\$509	\$10.18
18	Dolphin Marina	\$310	\$12.76	\$425	\$14.17	\$520	\$15.03	\$680	\$17.25	\$833	\$18.51	\$1,080	\$21.80
21	Holiday Harbor Marina	\$310	\$12.76	\$425	\$14.17	\$620	\$18.03	\$690	\$17.25	\$833	\$18.51	\$1,080	\$21.80
1251	Marina City Slips	\$355	\$14.20	\$435	\$14.50	\$555	\$15.80	\$715	\$17.88	\$845	\$18.78		
42/43	Marina del Rey Hotel	\$341	\$13.64	\$445	\$14.83	\$592	\$16.91	\$770	\$19.25	\$905	\$20.11	\$1,177	\$23.64
111	Marina Harbor P111	\$287.50	\$11.50	\$450	\$15.00	\$525	\$15.00	\$800	\$20.00	\$900	\$20.00	\$1,180	\$23.00
112	Marina Harbor P112	\$287.60	\$11.50	\$450	\$15.00	\$525	\$15.00	\$800	\$20.00	\$900	\$20.00	\$1,160	\$23.00
20	Mariners Bay			\$425	\$14.17	\$575	\$16.43	\$760	\$18.75			\$1,000	\$20.00
10	Neptune Marina	\$262.50	\$10.50	\$345	\$11.80			\$600	\$12.50				
20	Penay Way Marina	\$310	\$12.76	\$425	\$14.17	\$525	\$15.03	\$680	\$17.25	\$833	\$18.51	\$1,080	\$21.80
44	Pier 44	\$425	\$17.00	\$640	\$16.00	\$105	\$10.00			\$900	\$20.00		
7	Tahiti Marina	\$310	\$12.40	\$400	\$13.33			\$720	\$18.00				
53	The Boat Yard	\$913	\$12.50	\$450	\$15.00	\$812.50	\$17.50	\$780	\$19.00			\$1,150	\$23.00
13	Villa Del Mar Marina			\$408	\$15.80	\$813	\$17.60	\$700	\$17.50	\$907	\$20.15	\$1,008	\$20.15
47	Windjammers Yacht	\$281	\$11.24	\$328	\$10.97	\$437	\$12.49	\$578	\$14.45				
64	Windward Yacht Club	\$295	\$11.80	\$425	\$14.18	\$498	\$14.16	\$660	\$18.51	\$743	\$16.51		
	HIGH	\$425.00	\$17.00	\$540.00	\$18.00	\$685.00	\$19.00	\$800.00	\$20.00	\$905.75	\$20.15	\$1,177.00	\$23.64
	AVERAGE	\$305.88	\$12.24	\$407.13	\$13.97	\$526.53	\$15.04	\$683.41	\$17.09	\$827.33	\$18.38	\$1,033.63	\$20.87
	LOW	\$200.00	\$8.00	\$225.30	\$7.51	\$322.35	\$9.21	\$382.00	\$9.55	\$444.15	\$9.87	\$509.00	\$10.18

Note 1

Parcel 30, Del Rey Yacht Club charges its members a below market rate, however, County rent is based on a higher imputed gross receipt designed to replicate the market rate.

Survey of Slip Rental Rates of Other Harbors in Southern California - September 2007

SLIP SIZE

#	ANCHORAGE	City	25'		30'		35'		40'		45'		50'	
			Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot	Rent	\$/Foot
1	Anacapa Isle Marina	Channel Islands	\$337.00	\$13.48	\$439.00	\$14.63	\$504.00	\$16.11	\$696.00	\$17.40	\$818.00	\$18.18	\$943.00	\$18.88
2	Harbor Marina	Channel Islands			\$381.00	\$12.70			\$609.00	\$15.23				
3	Dana West Marina	Dana Point	\$336.00	\$13.44	\$487.00	\$16.23	\$602.00	\$17.20	\$704.00	\$17.60	\$807.00	\$17.93	\$929.00	\$18.58
4	Dana Point Marina	Dana Point	\$336.00	\$13.44	\$487.00	\$16.23	\$602.00	\$17.20	\$704.00	\$17.60	\$807.00	\$17.93	\$929.00	\$18.58
5	Peter's Landing	Huntington Beach	\$312.50	\$12.50	\$375.00	\$12.50	\$437.50	\$12.60	\$620.00	\$15.50	\$697.50	\$15.60	\$925.00	\$18.50
6	Sunset Aquatic Marina	Huntington Beach	\$364.00	\$14.56	\$462.00	\$15.40	\$608.00	\$17.37	\$888.00	\$17.20	\$884.00	\$19.20	\$954.00	\$19.08
7	Cerritos Yacht Anchorage	LALB Harbor	\$250.00	\$10.00	\$300.00	\$10.00	\$350.00	\$10.00	\$400.00	\$10.00	\$450.00	\$10.00	\$500.00	\$10.00
8	Holiday Harbor-Wilmington	LALB Harbor	\$212.50	\$8.50	\$277.50	\$9.25	\$367.50	\$10.50	\$440.00	\$11.00				
9	Pacific Yacht Landing	LALB Harbor	\$200.00	\$8.00	\$285.00	\$9.50	\$332.50	\$9.80	\$400.00	\$10.00	\$460.00	\$10.00	\$575.00	\$11.50
10	Island Yacht Anchorage	LALB Harbor	\$300.00	\$12.00			\$420.00	\$12.00	\$480.00	\$12.00	\$540.00	\$12.00	\$600.00	\$12.00
11	San Pedro Marina	LALB Harbor	\$250.00	\$10.00	\$300.00	\$10.00	\$350.00	\$10.00	\$400.00	\$10.00	\$450.00	\$10.00	\$500.00	\$10.00
12	Alamitos Bay Marina	Long Beach	\$248.75	\$8.95	\$328.50	\$10.95	\$423.50	\$12.10	\$484.00	\$12.10	\$595.50	\$13.30	\$725.00	\$14.50
13	Lido Yacht Anchorage	Newport Beach	\$443.75	\$17.75	\$582.50	\$19.75	\$790.25	\$22.75	\$1,010.00	\$25.25			\$1,325.00	\$28.50
14	Balboa Marina	Newport Beach	\$527.00	\$21.00	\$730.00	\$24.33	\$850.00	\$24.51	\$1,184.00	\$29.80	\$1,378.00	\$30.62	\$1,657.00	\$33.14
15	Bayview Marina	Newport Beach			\$822.00	\$30.73	\$1,075.00	\$30.71			\$1,741.00	\$38.60		
16	Villa Cove Marina	Newport Beach			\$789.00	\$26.30					\$1,547.00	\$34.30		
17	Channel Islands Harbor	Oxnard	\$301.00	\$12.04	\$381.00	\$12.70	\$493.00	\$14.09	\$609.00	\$15.23	\$709.00	\$15.78	\$854.00	\$17.00
18	Paninsula Yacht Marina	Oxnard	\$280.00	\$11.20	\$305.00	\$12.17	\$468.00	\$13.37					\$783.00	\$15.66
19	Bahia Marina	Oxnard					\$630.00	\$16.14	\$654.00	\$16.35	\$789.00	\$17.09	\$888.00	\$17.72
20	Redondo Beach Marina	Redondo Beach			\$345.00	\$11.50								
21	Port Royal Marina	Redondo Beach	\$201.25	\$11.65	\$403.50	\$13.45	\$542.50	\$15.50	\$640.00	\$16.00	\$814.50	\$18.10	\$905.00	\$18.10
22	Swales Anchorage	Newport Bay			\$510.00	\$17.00			\$720.00	\$18.00	\$900.00	\$20.00		
23	King Harbor Marina	King Harbor	\$284.00	\$10.58	\$338.00	\$11.27			\$582.00	\$14.55	\$752.00	\$18.71		
24	Bayview Village Marina	Newport Beach	\$508.25	\$20.25	\$740.00	\$24.67	\$857.50	\$24.60	\$1,255.00	\$31.38	\$1,408.25	\$31.25	\$1,895.00	\$31.90
25	Cabrillo Marina	San Pedro	\$271.25	\$10.85	\$356.40	\$11.88	\$497.00	\$14.20	\$588.00	\$14.20	\$720.45	\$16.01	\$800.50	\$16.01
26	Venture Isle Marina	Ventura	\$286.00	\$11.44	\$373.00	\$12.43	\$480.00	\$13.71	\$593.00	\$14.83	\$695.00	\$15.44	\$801.00	\$16.02
27	Ventura West Marina	Ventura			\$354.00	\$11.80	\$427.00	\$12.20	\$504.00	\$12.60	\$585.00	\$13.00	\$670.00	\$13.40
HIGH AVERAGE			\$527.00	\$21.08	\$822.00	\$30.73	\$1,075.00	\$30.71	\$1,255.00	\$31.38	\$1,741.00	\$38.60	\$1,657.00	\$33.14
AVERAGE			\$315.88	\$12.83	\$462.86	\$15.10	\$549.15	\$15.69	\$649.74	\$16.24	\$840.87	\$18.69	\$892.83	\$17.86
LOW			\$200.00	\$8.00	\$277.50	\$9.25	\$332.50	\$9.50	\$400.00	\$10.00	\$450.00	\$10.00	\$500.00	\$10.00

MARINA DEL REY HARBOR ORDINANCE SEAWORTHY & LIVEBOARD COMPLIANCE REPORT 2007

	November	December
Liveboard Permits Issued (NEW)	0	1
(RENEW)	<u>7</u>	<u>6</u>
Total	7	7
Notices to Comply Issued	0	0

	<u>Last Meeting</u>	<u>Present</u>
Total Reported Liveboards:	382	405
Total Current Liveboard Permits Issued:	170	145
Total expired permits:	99	138
Total Reported Liveboards without permits:	138	122

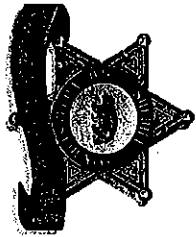
Total reported vessels docked in Marina del Rey Harbor: 4,416

Percentage of vessels that are registered liveboards: 9.17%

No new citations were issued for violations of 19.12.1110 L.A.C.C. (liveboard permit) or 19.12.1060 L.A.C.C. (un-seaworthy vessel) in the months of July and August.

Number Of Impounded Vessels Demolished

To date, two hundred thirty-three (233) vessels have been removed from the marina for disposal. Thirty (30) of those in 2007. Currently, six (6) vessels are awaiting disposal.



**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
MARINA DEL REY STATION
PART I CRIMES-DECEMBER 2007**



	West Marina 2760	East Marina 2761	Lost R.D. 2762	Marina Water 2763	Upper Ladera 2764	County Area 2765	Lower Ladera 2766	Windsor Hills 2767	View Park 2768	TOTALS
Homicide										0
Rape										0
Robbery: Weapon					1			1	3	5
Robbery: Strong-Arm							1	1	1	3
Aggravated Assault	1			1			2	1	2	7
Burglary: Residence	2	1			1		4	3	6	17
Burglary: Other Structure		3				1		1	2	7
Grand Theft	2	2				1	2		2	9
Grand Theft Auto	1				1		1	2	2	7
Arson										0
Boat Theft										0
Vehicle Burglary	2	1						1	3	7
Boat Burglary				4						4
Petty Theft	1	2		1	1		4			9
REPORTING DISTRICTS										
TOTALS	9	9		6	4	2	14	10	21	75

Note- The above numbers may change due to late reports and adjustments to previously reported crimes.

Source- LARCIS, Date Prepared -JANUARY 2, 2008
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES-DECEMBER 2007



Part I Crimes	MARINA AREA (RD'S 2760- 2763)	EAST END (RD'S 2764- 2768)
Homicide	0	0
Rape	0	0
Robbery: Weapon	0	5
Robbery: Strong-Arm	0	3
Aggravated Assault	2	5
Burglary: Residence	3	14
Burglary: Other Structure	3	4
Grand Theft	4	5
Grand Theft Auto	1	6
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	3	4
Boat Burglary	4	0
Petty Theft	4	5
Total	24	51

Note- The above numbers may change due to late reports and adjustments to previously reported crimes.

Source- LARCIS, **Date Prepared** -JANUARY 2 2008
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES- DECEMBER-2007



Community Advisory Committee	Upper Ladera 2764	Lower Ladera 2766
Homicide	0	0
Rape	0	0
Robbery: Weapon	1	0
Robbery: Strong-Arm	0	1
Aggravated Assault	0	2
Burglary: Residence	1	4
Burglary: Other Structure	0	0
Grand Theft	0	2
Grand Theft Auto	1	1
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	0	0
Boat Burglary	0	0
Petty Theft	1	4
Total	4	14

Note- The above numbers may change due to late reports and adjustments to previously reported crimes.

Source- LARCIS, Date Prepared **JANUARY 2, 2008**
CRIME INFORMATION REPORT - OPTION B



To enrich lives through effective and caring service

January 17, 2008



TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director *SW*

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

SUBJECT: **ITEM 3b - MARINA DEL REY AND BEACH SPECIAL EVENTS**

MARINA DEL REY

FISHERMAN'S VILLAGE WEEKEND CONCERTS

Sponsored by Pacific Ocean Management, LLC
Concerts are from 1:00 p.m. - 4:00 p.m.

Saturday, January 19

Michael Haggins (Smooth Jazz with a kick)

Sunday, January 20

Kid & Nic Show (American Pop)

Saturday, January 26

Blue Breeze (Contemporary Jazz)

Sunday, January 27

Sullivan Hall Band (Soul and R & B)

Saturday, February 2

Malachi Nathan and the Elements (Rhythm & Blues)

Sunday, February 3

LA Cat (Reggae)

Saturday, February 9

Floyd & the Fly Boys (Soul Review)

Sunday, February 10

2 Azz 1 Body & Soul Band (Smooth Jazz)

For more information call: Pacific Ocean Management at (310) 822-6866.

BEACH EVENTS

There are no beach events this month.

SW:DC:ms



To enrich lives through effective and caring service

January 17, 2008



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director

SUBJECT: ITEM 4a – APPROVAL OF OPTION FOR AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT – PARCEL 21 (HOLIDAY HARBOR) - MARINA DEL REY

Item 4a on your agenda pertains to an option to extend the Parcel 21 (Holiday Harbor) lease, in order to facilitate development of a new marina and a parking structure for 447 cars that also contains 29,000 square feet of commercial space. For your convenience, we have attached a copy of the Board letter that explains the details of the proposed transaction. The exhibits to the Board letter include a copy of the proposed Option to Amend Lease Agreement and a copy of the proposed Amended and Restated Lease Agreement.

In addition, pursuant to your request at the last Small Craft Harbor Commission (SCHC) meeting, we have also attached a report that compares the existing dock configuration with the proposed reconfigured dock plan, which results in a reduction of the existing slip count from 182 slips to 87 slips. The reduction in slips is due to several factors, including 1) having to meet new ADA dock standards; 2) the need to include a pump-out station on site; 3) correction of an incursion of the current dock into the County's waters outside of the leased area; 4) elimination of outdated double loaded slips; 5) wider slip standards for modern boat designs; and 6) change in the existing slip size mix that is overwhelmingly made up of small slips to a size mix that will better meet market demand for larger slips.

While we recognize that the California Coastal Commission (CCC) at its last meeting included a recommendation as part of its periodic review of the Marina Local Coastal Program (LCP) to oppose any reduction in the number of slips sized under 34 feet, we are recommending approval of the option and lease extension agreement for Parcel 21 in order to conclude the proprietary phase of the development and allow the project to proceed to the regulatory phase, at which time the regulatory agencies including the CCC will evaluate the project, including the dock plan, on its merits.

Your Commission's endorsement of the Chief Executive Officer's recommendation to the Board of Supervisors as contained in the attached letter is requested.

SW:KS:SHK:PW:gb
Attachments

January 15, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**DEPARTMENT OF BEACHES AND HARBORS: APPROVAL OF OPTION FOR
AMENDED AND RESTATED LEASE TO FACILITATE REDEVELOPMENT –
PARCEL 21 (HOLIDAY HARBOR) - MARINA DEL REY
(4th DISTRICT)
(4 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed Option to Amend Lease Agreement, attached as Exhibit A, is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Approve and authorize the Chair of the Board to sign the attached Option to Amend Lease Agreement granting to the current lessee, upon fulfillment of stated conditions, the right to extend the terms of its existing ground lease on Parcel 21 by 39 years.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Parcel 21 lessee, Goldrich & Kest Industries ("Lessee"), has an affiliate that is the Parcel OT lessee. As part of the Parcel OT development plan, a portion of the required replacement public parking is to be placed in a parking garage to be constructed on Parcel 21. Additionally, the Department of Beaches and Harbors ("Department") desires to reacquire a portion of Parcel 21 to expand a County-owned public parking lot (Parcel GR) serving the Marina Beach. Accordingly, an agreement was negotiated with Lessee for the redevelopment of the Parcel 21 property.

The proposed Option to Amend Lease Agreement ("Option") will allow Lessee to exercise its option and receive the benefits of the Amended and Restated Lease ("Restated Lease") attached as Exhibit B, upon demonstration that it has satisfied all of the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the redevelopment project.

Whether or not ultimately exercised, the Parcel 21 Option puts into effect modern lease provisions that have been negotiated in new and extended leases previously presented for your Board's consideration, including: a) reimbursement of County administrative/negotiating costs; b) payment of a non-refundable \$100,000 option fee (which shall be credited against the extension fee if the Option is exercised); c) establishment of a sinking fund to remove leasehold improvements at lease termination; d) modernized "baseball" type arbitration; e) lease assignment and ownership disclosure requirements; f) a 6% late fee plus interest for any late payments; g) security deposit in the amount of 3 months' minimum rent; h) new insurance requirements with insurance levels renegotiated each 5th lease anniversary date; i) County approval rights over construction plans and specifications; j) CPA-certified annual gross revenue reports; k) required maintenance in conformance with Marina standards; and l) liquidated damages of \$100 per day (adjusted for inflation) per cited maintenance deficiency for each deficiency that remains uncorrected after a specified cure period.

If the Option is exercised, in addition to the terms identified just above, the Restated Lease for Parcel 21 also provides for a 39-year lease extension; payment of a \$100,000 lease extension fee (already paid as a non-refundable option fee); demolition of the existing landside improvements; construction of a new commercial building containing not less than 29,000 square feet and an attached parking structure of 447 parking spaces to accommodate boater parking for not only Parcel 21, but also Parcel 20 (the leasehold of another Lessee affiliate), parking for the commercial uses in the new commercial building, and 94 replacement public parking spaces from Parcel OT; complete dock replacement of the existing 182 slips with 87 new slips; construction and maintenance of a new waterfront promenade; reconveyance to County at a specified date of the westerly 207 feet of the current leasehold to be used for additional public parking; establishment of a Capital Improvement Fund to be funded by amounts equal to 1.0% of gross revenues derived from the leasehold for years 4 and 5 following completion of the improvements, 1.25% of gross revenues derived from the leasehold for years 6 through 10 and 1.5% of gross revenues thereafter; establishment of a Renovation Fund in the amount of 1.0% of gross revenues annually that must be fully expended to physically reposition the project to then current market requirements between 2034 and 2036, with funding ceasing thereafter; a second complete replacement of the anchorage improvements between years 30 and 35 after the effective date of the Restated Lease; County participation in leasehold sale and/or refinance; County right to recapture the leasehold if the Lessee pursues its sale; and other miscellaneous improvements to the lease (e.g., enhanced audit and record-keeping standards).

Lessee must complete the parking structure as a condition to issuance of the certificate of occupancy for the proposed development of a seniors' congregate care facility on Parcel OT. Once the Lessee and the Parcel OT optionee have obtained all necessary project entitlements and have fulfilled the other requirements entitling them to exercise the Options for both parcels, we will return to your Board for authority to execute the Restated Lease in substantially the form attached.

The Department has obtained an appraisal that concludes the return to the County from the lease extension for Parcel 21 is equivalent to, or greater than, fair market value.

Implementation of Strategic Plan Goals

In furtherance of County Goals #1 and #4, "Service Excellence" and "Fiscal Responsibility," the recommended action will allow the Department to implement that portion of its Strategic Plan that enhances strategic partnerships with existing and prospective lessees through proactive implementation of the Marina del Rey Asset Management Strategy toward enhancing public access to and enjoyment of the Marina through property redevelopment and modernized lease provisions.

The following chart details the proposed deal terms of the Restated Lease providing for the 39-year lease extension as they relate to your Board's existing lease extension policy:

REDEVELOPMENT
Development of new
improvements

• **Redevelopment Work:** Lessee shall demolish the existing improvements on the premises and construct the following new improvements within five years of receipt of entitlements:

(i) **New Commercial Building:** A new commercial building containing not less than 29,000 square feet of rentable space and an attached parking structure to accommodate 447 cars. The new commercial building will provide replacement space for all existing landside uses on Parcel 21 and will provide replacement space for the yacht club and office uses presently on Parcel 20. The attached parking structure shall provide parking for the uses contained in the new commercial building, boater parking for Parcels 20 and 21, and 94 public parking spaces moved from Parcel OT. The square footage to be provided for each use and the parking to be provided for each use are summarized in the table below:

New Commercial Building	Sq. Ft. Provided	Parking Provided
Yacht Club	5,000	106
Health Club	10,000	20
Retail	6,000	23
Office	8,000	21
Parcel 20 Boater Parking	--	112
Parcel 21 Boater Parking	--	71
Parcel OT Replacement Parking	--	94
Total	29,000	447

(ii) **Dock Replacement:** Complete replacement of existing docks containing 182 slips with 87 slips made of concrete or other material acceptable to the Department Director, with a second dock replacement between the 30th and 35th year from the effective date of the Restated Lease;

(iii) **Waterfront Promenade:** Construction and maintenance of a waterfront promenade to run the length of the bulkhead.

• **Parcel Size Adjustment:** The leasehold area shall be reduced by removing the approximately westerly 207 linear feet from the landside area, excluding the Waterfront Promenade area. The parcel size

<p>REDEVELOPMENT (continued)</p>	<p>adjustment shall occur up to six months following the completion of construction of the replacement parking for Parcel OT.</p> <ul style="list-style-type: none"> • Total development cost not less than \$13 million (\$1.35 million for Dock Replacement; \$11.65 million for New Commercial Building and Waterfront Promenade) in 2005 dollars. • Construction of Redevelopment Work to be completed within five years from effective date of the Restated Lease, subject to force majeure, which in no event shall exceed two years. • <u>Capital Improvement Fund</u>. A Capital Improvement Fund to be funded annually by Lessee will be maintained during the term of the lease according to the following schedule: Years 1-3 after completion: none; Years 4-5: 1% of gross revenue; Years 6-10: 1.25% of gross revenue; Years 11+: 1.50% of gross revenue. The Capital Improvement Fund must be fully expended for capital expenditures by ten years prior to the expiration date of the lease, which expenditures are subject to prior approval by the Department Director, not to be unreasonably withheld. • <u>Renovation Fund</u>. A Renovation Fund equal to 1% of gross revenue to be funded annually by Lessee and maintained during the term of the Restated Lease; must be fully expended to physically reposition the project to then current market requirements between 2034 and 2036. Thereafter, no Renovation Fund shall be required. The Renovation Fund may be maintained in the form of a letter of credit. Lessee to provide a renovation plan and budget, subject to County approval.
<p>LEASE TERM</p>	<ul style="list-style-type: none"> • Option to extend lease on Parcel 21 by 39 years from 8/31/2026 to 8/31/2065.
<p>EXTENSION FEE Fee equal to or commensurate with value of the extension</p>	<ul style="list-style-type: none"> • The amount of the extension fee shall be \$100,000, payable as set forth below. • Lessee shall pay a non-refundable option fee of \$100,000 prior to the granting of the Option. Such payment shall be credited against the extension fee if the Option is exercised, but shall be non-refundable in the event the Option is not exercised.
<p>MARKET RATE RENTS Ensure fair market rents</p>	<ul style="list-style-type: none"> • Minimum annual rent during construction to be reset at the beginning of construction equal to 75% of Lessee's previous three years' average total annual rent paid to County. • Minimum annual rent upon earlier of the date of receipt of the first Certificate of Occupancy (temporary) following commencement of construction ("CO Date") or Required Completion Date equal to \$215,000. Thereafter, minimum rent reset every three years equal to 75% of previous three years' average total annual rent paid to County until first renegotiation. • Percentage and minimum rents are subject to renegotiation to fair market rent ten years after earlier of CO Date or Required Completion Date and every ten years thereafter.

PARTICIPATION IN SALE AND REFINANCE Secure County participation in sale and refinance of leasehold	<ul style="list-style-type: none"> • Sale Participation: Greater of 5% of Gross Proceeds or 20% of Net Proceeds upon assignment or other direct or indirect transfer of leasehold. • Refinance Participation: 20% of net loan proceeds not reinvested in leasehold.
COUNTY ADMIN. COSTS Ensure payment for County costs for lease extension	<ul style="list-style-type: none"> • Lessee agrees to reimburse County for costs associated with lease extension negotiations and option and lease preparation, including all appraisal, consultant and legal costs.
COUNTY INCOME CONTINUITY Ensure County revenue flow during development	<ul style="list-style-type: none"> • Minimum annual rent during construction to be reset at the beginning of construction equal to 75% of Lessee's previous three years' average total annual rent paid to County.
RIGHT TO RECAPTURE	<ul style="list-style-type: none"> • Provide County with a right to purchase the leasehold interest if Lessee desires to either assign or sell a controlling interest.
ARBITRATION	<ul style="list-style-type: none"> • Arbitration will use rent-a-judge procedure. "Baseball" type arbitration provision.
LEASE ASSIGNMENT - DISCLOSURE ISSUES	<ul style="list-style-type: none"> • Lease assignment and ownership disclosure requirements in accord with standard County policy.
DOCKMASTER	<ul style="list-style-type: none"> • Lessee to maintain a dockmaster to manage the anchorage for the term of the lease.
PROMENADE	<ul style="list-style-type: none"> • Lessee to construct a waterfront promenade in compliance with Marina Local Coastal Program and subject to County's reasonable approval of plans. • Promenade area to remain within the leasehold, as described in Parcel Size Adjustment above. Lessee retains responsibility for construction and maintenance of Promenade.
APPRAISAL	<ul style="list-style-type: none"> • The Department has obtained an independent appraisal confirming the return to the County from the lease extension is equivalent to, or greater than, fair market value.

<p>ENTITLEMENTS: SITE COVERAGE, HEIGHT & LAND USES</p>	<ul style="list-style-type: none"> • If Lessee is unable to obtain all necessary entitlement and financing approvals within the 12-month Option period, the Director may grant up to two six-month extensions if Lessee can demonstrate it has diligently pursued those approvals. • If Lessee obtains approvals within the 12-month (or 18- or 24-month) period but such approvals are subject to litigation or appeal brought by a third party, then the option exercise date will be tolled pending the resolution of such litigation or appeal; provided that the option exercise date shall in no event be later than four years after the date of the grant of Option. • Density, site coverage, open space, view corridor, building height, entitlement and land uses are subject to Lessee obtaining all County and Coastal Commission planning and entitlement approvals, including that of the Design Control Board. • Lessee may pursue County and Coastal Commission planning and entitlements approvals with respect to the provision of interim replacement parking and interim tenant space during construction.
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Additional Matters

<p>OTHER TERMS</p>	<ul style="list-style-type: none"> a) Ten years prior to expiration of lease, Lessee to structure funding for removal of improvements (at County's election). b) Rental renegotiation and insurance disputes subject to rent-a-judge procedure pursuant to "baseball" type arbitration. c) Maintenance standards for improvements to conform to Marina del Rey standards as revised from time to time. d) Lease administrative items include: a) late fee of 6% plus interest at prime plus 3% for any late payments; b) security deposit equal to three months' minimum rent; c) insurance levels reset/renegotiated upon execution of the Restated Lease and every five years thereafter; d) County approval rights over all construction plans and specifications; and e) enhanced audit and record-keeping standards. e) Liquidated damages of \$100 per day (adjusted for inflation) for each cited maintenance deficiency that remains uncured after a specified cure period, to be assessed against the security deposit.
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FISCAL IMPACT/FINANCING

The Restated Lease reflects the County's current market rate percentage rents for all relevant categories. It will produce two categories of fiscal benefit to the County: 1) an extension fee; and 2) rent increases due to construction of a new commercial building containing not less than 29,000 square feet of rentable space and new docks. Each component is discussed in detail below.

Extension Fee

Lessee is required to pay an extension fee of \$100,000. A non-refundable Option fee of \$100,000 is due upon the execution of the Option, which may be credited against the extension fee if the Option is exercised.

Rent Increase Due to New Construction

The total rent derived from Parcel 21 during fiscal year 2006-2007 was approximately \$296,000.00. After construction, lease-up and stabilization, annual County rent is projected to rise to approximately \$336,900, an annual increase of approximately \$40,900.

As an additional requirement of the Restated Lease, the Lessee will reconvey back to the County the westerly 207 feet of Parcel 21 to be integrated into the existing Parcel GR public parking lot in order to form a larger public parking lot. Lessee will also be responsible for the cost of converting the westerly 207 feet being reconveyed to a parking lot as per the County's plan.

Costs of consultants involved in the negotiation and development of the Option and Restated Lease are being reimbursed by the Lessee.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Without exercise of the Option, the term of the lease for Parcel 21, which commenced September 1, 1966, will expire August 31, 2026.

Concurrent with the exercise of the Parcel 21 Option, an option as to Parcel OT must also be exercised by Lessee's affiliate, both of which may be exercised only after the entitlements for each project are received. The Lessee has made application to the Department of Regional Planning for its discretionary land use entitlements under the applicable standards of the Marina del Rey Local Coastal Program (LCP), which application is still under review. Approval of the Option is without prejudice to the County's full exercise of its regulatory authority in the consideration of the land use entitlements required for the possible exercise of the Option.

Amendment and extension of the existing lease is authorized by Government Code Sections 25907 and 25536. The extended lease term is in conformance with the maximum 99-year period authorized by California law.

At its meeting of January 23, 2008, the Small Craft Harbor Commission _____ the recommendation to approve the Option and the Restated Lease in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Option is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Approval of the Option does not authorize construction or reconstruction of any improvements on the parcel. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment contemplated by the Option and the Restated Lease are under review by the Department of Regional Planning.

CONTRACTING PROCESS

The new Restated Lease will be available to the Lessee upon the exercise of the Option. Upon Lessee's demonstration that it has satisfied the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development project, we will return to your Board with final confirmation that the conditions and approvals for exercise contained in the Option have been satisfied. At that time, we will request authorization for execution of the Restated Lease.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

Authorize the Executive Officer/Clerk of the Board to send two copies of the executed Option to the Department of Beaches and Harbors.

Respectfully submitted,

William T Fujioka

SW:SK:GB:gb

Attachments (2)

c: County Counsel

Parcel 21 Marina Plan

The following chart shows a comparison of the slip size distribution using the historic Marina del Rey slip size groupings for both the current and the planned marina layouts.

Slip Size	Existing	%	New Plan	%
Under 26'	122	66.7%	7	8.0%
26' to 35'	50	27.3%	43	48.9%
36' to 50'	11	6.0%	38	43.1.0%
Over 50'	0	0%	0	0%
Totals	183		88	
Avg. Slip Size	25.17'		36.92'	

The current Parcel 21 dock plan has 67 slips that are 20 feet or under (36.6%) and 55 slips between 22 feet and 25 feet (30.0%), making 67% of the current slips 25' or less. An additional 50 slips are between 28 feet and 30 feet (27.3%), bringing the total to 172 slips out of 183 slips at 30 feet or less (94%). The overall average slip size for Parcel 21 is 25.17 feet, which is the smallest average slip size of any marina in Marina del Rey. The proposed layout has an average slip size of 36.92 feet.

Historically, the highest vacancy in Marina del Rey has always been in the smallest slip size category. The following chart shows the Parcel 21 vacancy reports for 2007 by size category. The majority of the vacancies are in the smallest size category, averaging 16.4 vacancies monthly in the under 26 foot category and 2.5 in the 26 foot to 35 foot category.

Slip Size	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
Under 26'	12	15	15	15	16	16	17	15	19	18	20	19	16.4
26' to 35'	0	2	4	5	3	3	3	2	2	2	2	2	2.5
36' to 50'	1	1	0	0	0	2	0	0	1	0	0	0	0.4
Over 50'	0	0	0	0	0	0	0	0	0	0	0	0	0
Totals	13	18	19	20	19	21	20	17	22	20	22	21	19.3

**AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 21—MARINA DEL REY**

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Lease") is made and entered into as of _____, ____ ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), and HOLIDAY-PANAY WAY MARINA, L.P., a California limited partnership (together with its permitted successors and assigns, "Lessee").

WITNESSETH

WHEREAS, the parties hereto or their predecessors in interest, entered into Lease No. 11210 dated September 27, 1966 (as amended prior hereto, the "Original Lease") whereby Lessee leases from County that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel No. 21 and which is more specifically described on Exhibit A attached hereto and incorporated herein by this reference ("Premises"), the term of which commenced on September 1, 1966 and currently extends through August 31, 2026 (the "Original Term"); and

WHEREAS, County and Lessee have entered into that certain Option to Amend Lease Agreement dated January __, 2008 (the "Option Agreement"), pursuant to which County granted Lessee an option (the "Option") to amend and restate the Original Lease in its entirety, upon the terms and conditions more specifically provided herein, including, without limitation, an extension of the term through August 31, 2065; and

WHEREAS, Lessee has exercised the Option in accordance with the terms and provisions of the Option Agreement.

NOW, THEREFORE, in reliance on the foregoing and in consideration of the mutual covenants, agreements and conditions set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto and each of them do agree as follows:

1. BACKGROUND AND GENERAL.

1.1 **Definitions.** The defined terms in this Lease shall have the meanings as follows:

1.1.1. "ACCOUNTING YEAR" shall have the meaning set forth in Section 14.7.

1.1.2. "ACTUAL COST" shall mean the reasonable cost and expenses incurred by County with respect to a particular activity or procedure, including without limitation (i) expenditures to third party legal counsel, financial consultants and advisors, (ii) costs incurred in connection with appraisals, and (iii) County's internal overhead and administrative costs, which include without limitation the value of services provided by County's in-house counsel, lease administrators and/or lease auditors and other County administrative staff below the level of deputy director (the administrative level which is two levels below the County department head).

1.1.3. "ADA" shall have the meaning set forth in Section 1.2.

1.1.4. "ADDITIONAL PARCEL 20 PARKING SPACES" shall have the meaning set forth in subsection 15.20.1.

1.1.5. "ADJUSTMENT DATES" shall have the meaning set forth in Section 4.3.

1.1.6. "ADMINISTRATIVE CHARGE" shall have the meaning set forth in Section 4.6.

1.1.7. "AGGREGATE TRANSFER" shall have the meaning set forth in subsection 4.6.3.

1.1.8. "ANCHORAGE IMPROVEMENTS" shall have the meaning set forth in Section 5.1.

1.1.9. "ANNUAL MINIMUM RENT" shall have the meaning set forth in subsection 4.2.1.

1.1.10. "APPLICABLE LAWS" shall have the meaning set forth in subsection 1.2.1.

1.1.11. "APPLICABLE RATE" shall mean an annually compounded rate of interest equal to the lesser of (a) ten percent (10%) per annum or (b) the Prime Rate, as defined in subsection 4.4.6, plus three percent (3%) per annum; however, the Applicable Rate shall in no event exceed the maximum rate of interest which may be charged pursuant to Applicable Laws. In the event that the Applicable Rate as determined by the first sentence of this definition exceeds such maximum rate of interest, then the Applicable Rate shall be deemed the maximum rate permissible under Applicable Laws notwithstanding the first sentence of this definition.

1.1.12. "APPROVED SLIP LEASE" shall have the meaning set forth in subsection 11.1.2.

1.1.13. "APPROVED FINAL PLANS, SPECIFICATIONS AND COSTS" shall have the meaning set forth in subsection 5.5.1.

1.1.14. "ASSIGNMENT STANDARDS" shall have the meaning set forth in Section 11.2.

1.1.15. "AUDITOR-CONTROLLER" shall mean the Auditor-Controller of the County of Los Angeles, California.

1.1.16. "AWARD" shall have the meaning set forth in subsection 6.1.3.

1.1.17. "BASE VALUE" shall have the meaning set forth in subsection 4.8.1.1.

1.1.18. "BENEFICIAL INTEREST" shall have the meaning set forth in subsection 4.6.4.

1.1.19. "BOARD" shall mean the Board of Supervisors for the County of Los Angeles.

1.1.20. "BUSINESS DAY" shall have the meaning set forth in Section 17.3.

1.1.21. "CALCULATION NOTICE" shall have the meaning set forth in Section 4.7.

1.1.22. "CAPITAL IMPROVEMENT FUND" shall have the meaning set forth in Section 5.13.

1.1.23. "CHANGE OF OWNERSHIP" shall have the meaning set forth in subsection 4.6.1.

1.1.24. "CHANGE OF CONTROL" shall have the meaning set forth in subsection 4.6.1.

1.1.25. "CITY" shall mean the City of Los Angeles, California.

1.1.26. "COMPLETION DATE" shall mean the date of receipt of the first Temporary Certificate of Occupancy or other applicable governmental permit, certificate or approval for the legal occupancy of any of the Improvements constructed on the Premises as part of the Redevelopment Work pursuant to Article 5 of this Lease.

1.1.27. "CONDEMNATION" shall have the meaning set forth in subsection 6.1.1.

1.1.28. "CONDEMNOR" shall have the meaning set forth in subsection 6.1.4.

1.1.29. "CONSUMER PRICE INDEX" shall mean the Consumer Price Index--All Urban Consumers for Los Angeles/Riverside/Orange Counties, as published from time to time by the United States Department of Labor or, in the event such index is no longer published or otherwise available, such replacement index as may be agreed upon by County and Lessee.

1.1.30. "COUNTY" shall have the meaning set forth in the first paragraph of this Lease.

1.1.31. "COUNTY OPTION" shall have the meaning set forth in subsection 11.2.4.

1.1.32. "COUNTY OPTION PRICE" shall have the meaning set forth in subsection 11.2.4.

1.1.33. "COUNTY POOL RATE" shall have the meaning set forth in subsection 4.4.5 of this Lease.

1.1.34. "DATE OF TAKING" shall have the meaning set forth in subsection 6.1.2.

1.1.35. "DEPARTMENT" shall mean the Department of Beaches and Harbors of the County of Los Angeles.

1.1.36. "DESIGNEES" shall have the meaning set forth in subsection 15.20.2.

1.1.37. "DIRECTOR" shall mean the Director of the Department of Beaches and Harbors of the County of Los Angeles or any successor County officer responsible for the administration of this Lease.

1.1.38. "DISQUALIFICATION JUDGMENT" shall have the meaning set forth in subsection 16.15.1.

1.1.39. "DOCUMENTED TRANSACTION COSTS" shall have the meaning set forth in subsection 4.8.1.2.

1.1.40. "EFFECTIVE DATE" shall mean the date set forth in the first preamble paragraph of this Lease.

1.1.41. "ENCUMBRANCE" shall have the meaning set forth in subsection 12.1.1.

1.1.42. "ENCUMBRANCE HOLDER" shall have the meaning set forth in subsection 12.1.1.

1.1.43. "ENR INDEX" shall mean the Engineering News Record (ENR) Construction Cost Index for the Los Angeles Area, or such substitute index as the parties may mutually agree upon if such index is no longer published or otherwise available.

1.1.44. "ENTITLEMENTS" shall mean all entitlements, permits, licenses and other approvals required to be obtained from governmental authorities (including County and the California Coastal Commission) for the construction of the Redevelopment Work.

1.1.45. "EQUITY ENCUMBRANCE HOLDER" shall have the meaning set forth in subsection 12.1.1.

1.1.46. "EQUITY FORECLOSURE TRANSFEREE" shall have the meaning set forth in subsection 12.2.1.

1.1.47. "EVENTS OF DEFAULT" shall have the meaning set forth in Section 13.1.

1.1.48. "EXCESS PERCENTAGE RENT PAYMENT" shall have the meaning set forth in subsection 4.2.2.4.

1.1.49. "EXECUTION DATE" shall mean the date of execution of this Lease by County.

1.1.50. "EXCLUDED DEFAULTS" shall have the meaning set forth in subsection 12.3.3.

1.1.51. "EXTENDED TIME" shall have the meaning set forth in Section 15.15.

1.1.52. "FAIR MARKET RENTAL VALUE" shall have the meaning set forth in subsection 4.4.1.

1.1.53. "FINANCING EVENT" shall have the meaning set forth in Section 12.1.1.

1.1.54. "FIRST ADJUSTMENT DATE" shall have the meaning set forth in Section 4.3.

1.1.55. "FORCE MAJEURE" shall have the meaning set forth in subsection 5.7.3.4.

1.1.56. "FORECLOSURE TRANSFER" shall have the meaning set forth in subsection 12.2.1.

1.1.57. "FORECLOSURE TRANSFEREE" shall have the meaning set forth in subsection 12.2.1.

1.1.58. "GROSS ERROR" shall have the meaning set forth in subsection 16.15.4.

1.1.59. "GROSS RECEIPTS" shall have the meaning set forth in subsection 4.2.2.3.

1.1.60. "IMPROVEMENTS" means all buildings, structures, fixtures, docks, anchorage facilities, fences, fountains, walls, paving, parking areas, driveways, walkways, plazas, landscaping, permanently affixed utility systems and other improvements now or hereafter located on the Premises, including without limitation, the Redevelopment Work.

1.1.61. "IMPROVEMENT COSTS" shall have the meaning set forth in subsection 4.8.1.1.

1.1.62. "INCOME APPROACH" shall have the meaning set forth in Section 6.5.

1.1.63. "INITIATING PARTY" shall have the meaning set forth in the first paragraph of Article 16.

1.1.64. "INSTITUTIONAL LENDER" shall have the meaning set forth in subsection 12.3.1.

1.1.65. "INSURANCE RENEGOTIATION DATE" shall have the meaning set forth in Section 9.6.

1.1.66. "LATE FEE" shall have the meaning set forth in Section 4.5.

1.1.67. "LEASE" shall mean this Amended and Restated Lease Agreement.

1.1.68. "LEASE YEAR" shall have the meaning set forth in Section 2.1.

1.1.69. "LESSEE" shall have the meaning set forth in the first paragraph of this Lease.

1.1.70. "LESSEE SALE PRICE" shall have the meaning set forth in subsection 11.2.4.

1.1.71. "LETTER OF CREDIT" shall have the meaning set forth in Section 7.1.

1.1.72. "MAJOR SUBLEASE" shall have the meaning set forth in subsection 11.1.1.

1.1.73. "MAJOR SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.

1.1.74. "MONTHLY MINIMUM RENT" shall have the meaning set forth in subsection 4.2.1.

1.1.75. "NET AWARDS AND PAYMENTS" shall have the meaning set forth in Section 6.7.

1.1.76. "NET PROCEEDS SHARE" shall have the meaning set forth in Section 4.6.

1.1.77. "NET REFINANCING PROCEEDS" shall have the meaning set forth in subsection 4.8.5.

1.1.78. "NET TRANSFER PROCEEDS" shall have the meanings set forth in subsections 4.8.1 and 4.8.2.

1.1.79. "NEW COMMERCIAL BUILDING" shall have the meaning set forth in Section 5.1.

1.1.80. "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.7.7.

1.1.81. "ON-SITE PARKING SPACES" shall have the meaning set forth in subsection 15.20.1.

1.1.82. "OPERATION PLAN" shall have the meaning set forth in subsection 15.20.4.

1.1.83. "OPTION" shall have the meaning set forth in the preamble to this Lease.

1.1.84. "OPTION AGREEMENT" shall have the meaning set forth in the preamble to this Lease.

1.1.85. "ORIGINAL LEASE" shall have the meaning set forth in the preamble to this Lease.

1.1.86. "ORIGINAL TERM" shall have the meaning set forth in the preamble to this Lease.

1.1.87. "OWNERSHIP INTERESTS" shall have the meaning set forth in subsection 12.1.1.

1.1.88. "PARCEL 147" shall mean the property previously commonly known as Parking Lot 8 or Parcel OT, including the annexation of a portion of Parcel P, in the Marina del Rey Small Craft Harbor [and currently leased by County to Lessee's affiliate, MDR Oceana, LLC, a California limited liability company, pursuant to that certain Lease Agreement dated _____ (the "Parcel 147 Lease")].

1.1.89. "PARCEL 20" shall mean the property commonly known as Parcel 20 in the Marina del Rey Small Craft Harbor and currently leased by County to Lessee's affiliate, Panay Way Marina, L.P., a California limited partnership, pursuant to that certain Amended and Restated Lease Agreement dated September 9, 2004, as amended by that certain Amendment No. 12 to Amended and Restated Lease dated as of _____, 2007 (as so amended, the "Parcel 20 Lease").

1.1.90. "PARCEL 147 LESSEE" shall mean the lessee from time to time under the Parcel 147 Lease.

1.1.91. "PARCEL 20 LESSEE" shall mean the lessee from time to time under the Parcel 20 Lease, and any other lessee of Parcel 20 (or the portion of Parcel 20 on which the anchorage improvements are located) designated from time to time by County.

1.1.92. "PARKING STRUCTURE" shall have the meaning set forth in Section 5.1.

1.1.93. "PARTIAL TAKING" shall have the meaning set forth in Section 6.5.

1.1.94. "PARTIAL TERMINATION DATE" shall have the meaning set forth in Section 2.2.

1.1.95. "PARTIAL TERMINATION PREMISES" shall have the meaning set forth in Section 2.2.

1.1.96. "PAYMENT BOND" shall have the meaning set forth in subsection 5.5.4.2.

1.1.97. "PERCENTAGE RENT" shall have the meaning set forth in subsection 4.2.2.

1.1.98. "PERFORMANCE BOND" shall have the meaning set forth in subsection 5.5.4.1.

1.1.99. "PERMITTED CAPITAL EXPENDITURES" shall have the meaning set forth in Section 5.13.

1.1.100. "PERMITTED USES" shall have the meaning set forth in Section 3.1.

1.1.101. "PREMISES" shall have the meaning set forth in the first recital to this Lease, as more specifically described in Exhibit A hereto.

1.1.102. "PRIME RATE" shall have the meaning set forth in subsection 4.4.5.

1.1.103. "PROMENADE WORK" shall have the meaning set forth in Section 15.19.

1.1.104. "PROPOSED TRANSFER" shall have the meaning set forth in subsection 11.2.4.

1.1.105. "PUBLIC SERVICE PLAN" shall have the meaning set forth in subsection 4.2.2(t).

1.1.106. "PUBLIC WORKS DIRECTOR" shall mean the Director of the Department of Public Works of the County of Los Angeles.

1.1.107. "PURCHASE MONEY NOTE" shall have the meaning set forth in subsection 4.7.2.

1.1.108. "REDEVELOPMENT WORK" shall have the meaning set forth in Section 5.1.

1.1.109. "RENEGOTIATION DATES" shall have the meaning set forth in Section 4.4.

1.1.110. "RENOVATION FUND" shall have the meaning set forth in Section 5.15.

1.1.111. "RENOVATION PLAN" shall have the meaning set forth in Section 5.15.

1.1.112. "RENOVATION REQUIREMENT" shall have the meaning set forth in Section 5.15.

1.1.113. "REPLACEMENT PARCEL 147 PARKING SPACES" shall have the meaning set forth in subsection 15.20.1.

- 1.1.114. "REPLY" shall have the meaning set forth in Section 16.5.
- 1.1.115. "RESPONDING PARTY" shall have the meaning set forth in the first paragraph of Article 16.
- 1.1.116. "REQUIRED COMPLETION DATE" shall have the meaning set forth in Section 5.7.
- 1.1.117. "SECTION" shall mean a Section of this Lease.
- 1.1.118. "SECURITY DEPOSIT" shall have the meaning set forth in Section 7.1.
- 1.1.119. "SHALL" and "WILL" are mandatory and the word "MAY" is permissive.
- 1.1.120. "STATE" shall mean the State of California.
- 1.1.121. "STATEMENT OF POSITION" shall have the meaning set forth in subsection 16.6.
- 1.1.122. "SUBLEASE" shall have the meaning set forth in subsection 11.1.1.
- 1.1.123. "SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.
- 1.1.124. "SUBSECTION" shall mean a subsection of a Section of this Lease.
- 1.1.125. "SUBSTANTIAL COMMENCEMENT OF CONSTRUCTION" shall have the meaning set forth in subsection 5.7.1.
- 1.1.126. "TERM" shall have the meaning set forth in Section 2.1.
- 1.1.127. "TIME OF THE ESSENCE" shall have the meaning set forth in Section 15.2.
- 1.1.128. "UNINSURED LOSS" shall have the meaning set forth in Section 10.2.
- 1.1.129. "UNREASONABLE COUNTY ACT" shall have the meaning set forth in subsection 5.7.3.2.
- 1.1.130. "WRITTEN APPRAISAL EVIDENCE" shall have the meaning set forth in subsection 16.7.

1.2 **Lease.** For and in consideration of the payment of rentals and the performance of all the covenants and conditions of this Lease, County hereby leases to Lessee, and Lessee hereby leases and hires from County, an exclusive right to possess and use, as tenant, the Premises for the Term (as hereinafter defined) and upon the terms and conditions and subject to the requirements set forth herein.

1.2.1. As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since 1966, and (3) the Improvements now existing on the Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in subsection 1.2.2, Lessee accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the Effective Date and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS WITH ALL FAULTS". Lessee hereby accepts the Premises on an "AS IS WITH ALL FAULTS" basis and, except as expressly set forth in this Lease, Lessee is not relying on any representation or warranty of any kind whatsoever, express or implied, from County or any other governmental authority or public agency, or their respective agents or employees, as to any matters concerning the Premises and/or any Improvements located thereon, including without limitation: (i) the quality, nature, adequacy and physical condition and aspects of the Premises and/or any Improvements located thereon, including, but not limited to, the structural elements, foundation, roof, protections against ocean damage, erosion, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage and utility systems, facilities and appliances, and the square footage of the land and within the Improvements and within each space therein, (ii) the quality, nature, adequacy and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises and/or any Improvements located thereon, (iv) the development potential of the Premises, and the use, habitability, merchantability or fitness, or the suitability, value or adequacy of the Premises and/or any Improvements located thereon for any particular purpose, (v) the zoning or other legal status or entitlement or lack thereof of the Premises or any other public or private restrictions on use of the Premises, (vi) the compliance of the Premises and/or any Improvements located thereon with any applicable codes, laws, rules, regulations, statutes, resolutions, ordinances, covenants, conditions and restrictions of County, City, State, the United States of America, the California Coastal Commission and/or any other governmental or quasi-governmental entity ("Applicable Laws") or of any other person or entity (including, without limitation, relevant provisions of the Americans with Disabilities Act ("ADA")), (vii) the presence of any underground storage tank or hazardous materials on, under or about the Premises or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any Improvements, (ix) the condition of title to the Premises, and (x) the economics of the operation of the Premises and/or any Improvements located thereon.

1.2.2. Title. County represents that County owns fee title to the Premises and that County has authority to enter into this Lease. Lessee hereby acknowledges the title of County and/or any other public entity or agency having jurisdiction thereover, in and to the Premises, and covenants and agrees never to contest or challenge the extent of said title, except as is necessary to ensure that Lessee may occupy the Premises pursuant to the terms and conditions of this Lease.

2. TERM.

2.1 Term. Unless terminated sooner in accordance with the provisions of this Lease, the term of this Lease shall be for the period commencing on September 1, 1966 and expiring at 11:59 p.m. on August 31, 2065 ("Term"). Each calendar year during the Term is referred to herein as a "Lease Year."

2.2 Partial Lease Termination. Effective upon the Partial Termination Date (as defined below), this Lease shall be terminated with respect to the westerly approximately 207 feet of the Premises (excluding the Promenade) as more particularly described on Exhibit A-1 attached to this Lease (the "Partial Termination Premises"). For purposes hereof, the "Partial Termination Date" means the earlier of (a) six (6) months following the issuance of the first certificate of occupancy for any portion of the "Development Work" described in the Parcel 147 Lease; or (b) six (6) months following the "Required Completion Date" under the Parcel 147 Lease; provided, however, that if the requirement for concurrent execution of the Parcel 147 Lease and this Lease is eliminated as contemplated under the Option Agreement, and the option for the Parcel 147 Lease is not exercised prior to the expiration or termination of such option, then the Partial Termination Date shall be the third (3rd) anniversary of the Effective Date of this Lease.

On or prior to the Partial Termination Date, Lessee shall (i) at Lessee's sole cost and expense, demolish and remove from the Partial Termination Premises all then-existing above and below-ground Improvements located on the Partial Termination Premises and construct a new surface parking lot (including without limitation, any required site work, paving, striping and lighting) on the Partial Termination Premises in accordance with plans and specifications provided by the Department (the "Parking Lot Work"), and (ii) surrender possession of the Partial Termination Premises to County. County agrees to use commercially reasonable efforts to cooperate with Lessee in the grant or reservation of any utility easements over the Partial Termination Premises required for the development of the remaining portion of the Premises as long as such utility easements do not interfere with the development and use of the Partial Termination Premises. If Lessee fails to perform its obligations under this Section 2.2 within the time periods required hereunder (subject to Force Majeure, as hereinafter defined, and subject to any applicable notice and cure periods), then such failure shall constitute a default by Lessee under this Lease, and in addition to any other rights or remedies that County may have in connection with such default, County shall have the right, but not the obligation, to exercise one or both of the following remedies: (I) to delay the Partial Termination Date until any date selected by County on or prior to the date of the completion of the Parking Lot Work, or (II) to perform the Parking Lot Work on Lessee's behalf, in which case Lessee shall be obligated under this Lease to pay to County the Actual Cost incurred by County in connection with the performance of the Parking Lot Work. No termination of the Lease with respect to the Partial Termination Premises shall release or relieve Lessee from its obligations under this Section 2.2, all of which shall survive any such termination. Subject to the immediately preceding sentence, effective on the Partial Termination Date the Term of the Lease shall expire with respect to the Partial Termination Premises and Lessee shall have no further rights or interests in the Partial Termination Premises (except as otherwise expressly provided herein). Subject to the performance of Lessee's obligations under this Section 2.2, Lessee shall continue to have all of its rights under this Lease with respect to the Partial Termination Premises (including without

limitation, the right to use and occupy the Partial Termination Premises) until the Partial Termination Date.

At County's request, Lessee shall execute an amendment to this Lease and a quitclaim deed with respect to the Partial Termination Premises, to confirm the termination of the Lease with respect to the Partial Termination Premises, and County and Lessee shall execute any other documents as reasonably necessary or appropriate to effectuate the termination of this Lease with respect to the Partial Termination Premises or the other matters set forth in this Section 2.2. Notwithstanding the foregoing, the termination of the Lease with respect to the Partial Termination Premises in accordance with the terms and provisions of this Section 2.2 shall not be conditioned upon the execution of any such amendment, quitclaim deed or other documentation. There shall be no adjustment to the Annual Minimum Rent or Percentage Rent payable under this Lease upon the termination of the Lease with respect to the Partial Termination Premises.

2.3 Ownership of Improvements During Term. Until the expiration of the Term or sooner termination of this Lease and except as specifically provided herein, Lessee shall own all Improvements now existing and constructed by Lessee or its predecessors or hereafter constructed by Lessee upon the Premises, and all alterations, additions, or betterments made thereto by Lessee.

2.4 Reversion of Improvements. Upon the expiration of the Term or sooner termination of this Lease, whether by cancellation, forfeiture or otherwise:

2.4.1. County's Election to Receive Improvements. At the election of County, all structures, buildings, Improvements and all alterations, additions, and betterments thereto, and all other Improvements made to or upon the Premises shall remain upon and be surrendered with the Premises as part thereof and title thereto shall vest in County without compensation therefor to Lessee. Nothing contained herein shall be construed to deny or abrogate the right of Lessee, prior to the expiration of the Term or termination of this Lease, to receive any and all proceeds which are attributable to the Condemnation of business installations, Improvements, structures and buildings belonging to Lessee immediately prior to the taking of possession by the Condemnor as said rights are set forth in Article 6 of this Lease, or to remove any furniture or equipment not intended to be permanently affixed to, or reasonably necessary for the operation of, the Premises, any signage identifying Lessee (as opposed to other signage used in the operation of the Premises and associated Improvements), or any personal property, upon the expiration of the Term or earlier termination of this Lease or at any time during the Term, subject to Lessee's obligations under this Lease to use the Premises for the Permitted Uses.

2.4.2. Duty to Remove. No earlier than eleven (11) years, and no later than ten (10) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by a construction and demolition expert approved by County, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all Improvements on the Premises at the expiration of the Term. County may give written notice at any time, no later than four (4) years prior to the expiration of the Term or concurrently upon any earlier termination, of County's election to require Lessee

to remove, at the sole cost and expense of Lessee, not later than the expiration of the Term or earlier termination of this Lease, all or any portion of the at grade, above grade and below grade structures, buildings and Improvements of any kind whatsoever placed or maintained on the Premises, whether placed thereon or maintained by Lessee or others, including, but not limited to, concrete foundations, pilings, structures and buildings; and if such structures are required to be removed by Lessee, then Lessee shall, upon the expiration or termination of this Lease, immediately restore, and quit, and peacefully surrender possession of, the Premises to County in good, usable and buildable condition, consisting of a level, graded buildable pad with no excavations, hollows, hills or humps. If Lessee has received written notice of County's election to require Lessee to remove Improvements hereunder, Lessee shall, no later than the date which is ninety (90) days after the date upon which Lessee received such notice from County, provide County with a letter of credit, bond or other security or deposit of funds, in form, issuer and amount satisfactory to County, to secure the discharge of Lessee's removal and restoration obligations pursuant to this subsection. The amount of the letter of credit, bond or other security or deposit shall be equal to the greatest of (i) one hundred fifty percent (150%) of the estimated cost to remove the Improvements as set forth in the report described above (the "Estimated Costs"), (ii) the Estimated Costs adjusted to reflect the percentage change in the ENR Index over the five (5) year period immediately preceding the date of Lessee's delivery of the letter of credit, bond, or other security or deposit, or (iii) the Estimated Costs adjusted to reflect the percentage change in the CPI Index over the five (5) year period immediately preceding the date of Lessee's delivery of the letter of credit, bond, or other security or deposit. If by not later than four (4) years prior to the expiration of the Term (or concurrently on any earlier termination of the Lease by County) County fails to elect to require Lessee to remove the buildings, structures and Improvements on the Premises as provided above, then upon the expiration of the Term, or earlier termination of the Lease, Lessee shall turn over the Premises to County in good and workmanlike condition, consistent with the condition of other buildings, structures and Improvements of comparable age and construction quality.

2.4.3. County's Right to Remove Improvements. If, following an election by County to cause Lessee to remove the structures, buildings and Improvements as described in subsection 2.4.2 above, Lessee in fact fails to so remove said structures, buildings and Improvements and restore the Premises, County may sell, remove or demolish the same, in event of which sale, removal or demolition Lessee shall reimburse County for its Actual Costs incurred in connection with such sale, removal or demolition in excess of any funds received by County through the security above provided and any consideration received by County as a result of such sale, removal or demolition.

2.4.4. Duty to Remove Equipment, Etc. No later than the expiration of the Term or sooner termination of this Lease, Lessee shall in any event remove at its cost and expense such furniture, equipment and personal property as are not firmly affixed to said structures, buildings and Improvements or reasonably necessary for the orderly operation of the Premises. Should Lessee fail to so remove said furniture, equipment and personal property within said period, and said failure continues for ten (10) days after written notice from County to Lessee, Lessee shall lose all right, title and interest in and thereto, and County may elect to keep the same upon the Premises or to sell, remove, or demolish

the same, in event of which sale, removal, or demolition Lessee shall reimburse County for its Actual Costs incurred in connection with such sale, removal or demolition in excess of any consideration received by County as a result of said sale, removal or demolition.

2.4.5. Title to Certain Improvements Passes to County; Lessee to Maintain. As between County and Lessee, title to all utility lines, transformer vaults and all other utility facilities constructed or installed by Lessee upon the Premises shall vest in County upon construction or installation to the extent that they are not owned by a utility.

Notwithstanding the foregoing sentence, such utility lines, transformer vaults and all other utility facilities, shall be maintained, repaired, and replaced, if and as needed, by Lessee during the Term.

3. USE OF PREMISES.

3.1 Specific Primary Use. The Premises shall be used by Lessee for the operation and management of (i) a commercial building used for retail, office, health club and yacht club purposes; (ii) boat anchorage facilities, including transient boat accommodations and liveaboards; (iii) a parking structure to (A) satisfy the parking requirements for the other Improvements located on the Premises, including the boat anchorage facilities, (B) provide 112 parking spaces to serve the boat anchorage facilities located on Parcel 20, and (C) provide 94 parking spaces as replacement public parking for public parking terminated on Parcel 147 in connection with the development of Parcel 147; and (iv) such other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "Permitted Uses"). Except as specifically provided herein, the Premises shall be used for no other purpose without the prior written consent of County. County makes no representation or warranty regarding the continued legality of the Permitted Uses or any of them, and Lessee bears all risk of an adverse change in Applicable Laws.

Pacific Mariners Yacht Club and one or more other commercial tenants (the "Parcel 20 Commercial Subtenants") currently occupy the existing commercial building located on Parcel 20. Lessee agrees to offer to sublease to the Parcel 20 Commercial Subtenants a comparable amount of space in the New Commercial Building to facilitate the relocation of the Parcel 20 Commercial Subtenants to the New Commercial Building. The sublease offered to each of the Parcel 20 Commercial Subtenants shall be on market rate economic terms and conditions (but any non-economic terms and conditions, such as, but not limited to, liability and indemnification provisions, may at Lessee's option be consistent with those set forth in the Parcel 20 Commercial Subtenants' current subleases existing as of the date hereof).

3.2 Prohibited Uses. Notwithstanding the foregoing:

3.2.1. Nuisance. Lessee shall not conduct or permit to be conducted any private or public nuisance on or about the Premises, nor commit any waste thereon. No rubbish, trash, waste, residue, brush, weeds or undergrowth or debris of any kind or character shall ever be placed or permitted to accumulate upon any portion of the Premises, except in appropriate receptacles intended for such purposes, nor shall any portion of the Premises be maintained so as to render said Premises a fire hazard or unsanitary, unsightly,

offensive; or detrimental nor shall any similar activity be permitted on any other portion of the Premises or on any adjacent public street or adjacent property.

3.2.2. Restrictions and Prohibited Uses. Without expanding upon or enlarging the Permitted Uses of the Premises as set forth in this Lease, the following uses of the Premises are expressly prohibited:

3.2.2.1. The Premises shall not be used or developed in any way which is inconsistent with any applicable governmental or public agency requirements;

3.2.2.2. The Premises shall not be used or developed in any way in a manner inconsistent with the Permitted Uses. Without limiting the foregoing, no part of the Premises shall be used by any person for any adult entertainment purposes, as such term refers to graphic, explicit and/or obscene depictions of sexual activity;

3.2.2.3. No improvement on the Premises shall be permitted to fall into disrepair and all Improvements shall at all times be kept in good condition and repair consistent with the requirements of Section 10.1 of this Lease;

3.2.2.4. No condition shall be permitted to exist upon the Premises which shall induce, breed or harbor infectious plant diseases, rodents, or noxious insects and Lessee shall take such measures as are appropriate to prevent any conditions from existing on the Premises which create a danger to the health or safety of any persons residing or working at, or persons patronizing, the Premises;

3.2.2.5. Without the prior written approval of Director, no antennae or other device for the transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained by Lessee outdoors above ground on any portion of the Premises, whether attached to an improvement or otherwise;

3.2.2.6. No tools, equipment, or other structure designed for use in boring for water, oil, gas or other subterranean minerals or other substances, or designed for use in any mining operation or exploration, shall hereafter be erected or placed upon or adjacent to the Premises, except as is necessary to allow Lessee to perform its maintenance and repair obligations pursuant to this Lease;

3.2.2.7. No adverse environmental condition in violation of Applicable Laws shall be permitted to exist on any portion of the Premises, nor shall any toxic or hazardous wastes be permitted to be generated, treated, stored, disposed of, or otherwise deposited in or on or allowed to emanate from the Premises or any portion thereof, including, without limitation, into the surface waters and subsurface waters thereof; provided, however, that toxic or hazardous substances may be stored or used, so long as such storage and use is (a) ancillary to the ordinary course of business of an otherwise Permitted Use with the intent that such substances will be used in the ordinary course of business, and (b) conducted in compliance with all Applicable Laws; and

3.2.2.8. The following uses shall not be permitted: (a) fuel sales; (b) boat or vehicle repair, other than minor servicing or owner maintenance; (c) live bait sales; (d) commercial sportfishing and tour boats; or (e) residential use.

3.3 Active Public Use. The parties acknowledge that the ultimate objective of this Lease is the complete and continuous use of the facilities and amenities located in Marina del Rey by and for the benefit of the public, without discrimination as to race, gender or religion, along with the generation and realization of revenue therefrom. Accordingly, Lessee agrees and covenants that it will operate the Premises fully and continuously in light of these objectives, consistent with the operation of commercial, boat anchorage and parking facilities, and that it will use commercially reasonable efforts so that County may obtain maximum revenue therefrom as contemplated by this Lease. In the event of any dispute or controversy relating hereto, this Lease shall be construed with due regard to the aforementioned objectives.

3.4 Days of Operation. The Premises shall be open every day of the year. Any changes in the days and/or hours of operation of the public portions of the Premises shall be subject to the written approval of County.

3.5 Signs and Awnings. Any and all art, displays, identifications, monuments, awnings, advertising signs and banners which are placed on, or are visible from, the exterior of the Premises shall be only of such size, design, wording of signs and color as shall have been specifically submitted to and approved by Director (and to the extent required under then applicable Law, the Design Control Board), whether pursuant to Article 5 of this Lease or otherwise, in writing, prior to the erection or installation of said art, sign, display, identification, monument, awning or advertising sign.

3.6 Compliance with Regulations. Lessee shall comply with all Applicable Laws and shall pay for and maintain any and all licenses and permits related to or affecting the use, operation, maintenance, repair or improvement of the Premises.

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other commercial, boat anchorage and parking facilities in Marina del Rey, and delivered in writing to Lessee.

3.8 Reservations. Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior encumbrances, reservations, licenses, easements and rights of way existing as of the date hereof or otherwise referenced in this Lease in, to, over or affecting the Premises for any purpose whatsoever.

Without limiting the foregoing, Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior matters of record and the right of County or City existing as of the Effective Date or otherwise disclosed to or known to Lessee, as their interests may appear, to install, construct, maintain, service and operate sanitary sewers, public roads and sidewalks, fire access roads, storm drains, drainage facilities, electric power lines, telephone lines and access and utility easements across, upon or under the Premises, together with the right

of County or the City to convey such easements and transfer such rights to others.

The Lease of the Premises is also subject to the easements reserved in Sections 15.19 and 15.20 below.

3.9 Yacht Club Use. It is agreed and acknowledged by County and Lessee that a primary purpose of the yacht club use permitted under Section 3.1 above is to provide for a continuing and ongoing program in boating instruction and safety and to contribute to the pleasure of private boat ownership by participation in yachting regattas and similar competitive events. To that end, Lessee agrees and covenants to undertake and carry on and participate in those activities set forth on Exhibit C attached hereto, or such substitute activities as may be hereafter approved by Director.

An annual Public Service Plan shall be submitted by Lessee for Director's approval, on or prior to January 15 of each year, certifying that, and describing the manner in which, the requirements of this Section 3.9 have been satisfied by Lessee, together with Lessee's plans to meet such requirements in the current calendar year.

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the payments to be made by Lessee under this Lease are intended to be absolutely net to County. The rent and other sums to be paid to County hereunder are not subject to any demand, set-off or other withholding. Except as specifically set forth herein, Lessee shall be solely responsible for all capital costs (including, without limitation, all structural and roof repairs or replacements) and operating expenses attributable to the operation and maintenance of the Premises, including without limitation the parking areas included within the Premises.

4.1.1. Utilities. In addition to the rental charges as herein provided, Lessee shall pay all utility and service charges for furnishing water, power, sewage disposal, light, telephone service, garbage and trash collection and all other utilities and services, to said Premises.

4.1.2. Taxes and Assessments. Lessee agrees to pay before delinquency all lawful taxes, assessments, fees, or charges which at any time may be levied by the State, County, City or any tax or assessment levying body upon any interest in this Lease or any possessory right which Lessee may have in or to the Premises covered hereby or to the Improvements thereon for any reason, as well as all taxes, assessments, fees, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by it in, on or about the Premises. Lessee's obligation to pay taxes and assessments hereunder shall include but is not limited to the obligation to pay any taxes and/or assessments, or increases in taxes and/or assessments arising as a result of the grant to Lessee of the Option or Lessee's exercise thereof. Lessee shall have the right to contest the amount of any assessment imposed against the Premises or the possessory interest therein; provided, however, the entire expense of any such contest (including interest and penalties which may accrue in respect of such taxes) shall be the responsibility of Lessee.

The parties acknowledge that the Premises are and shall continue to be subject to

possessory interest taxes, and that such taxes shall be paid by Lessee. This statement is intended to comply with Section 107.6 of the Revenue and Taxation Code. Lessee shall include a statement in all Subleases to the effect that the interests created therein may also be subject to possessory interest taxes, and that the Sublessee shall be responsible for any and all possessory interest taxes on the Sublessee's interest; however, Lessee acknowledges that the payment of such possessory interest taxes is the ultimate responsibility of Lessee.

4.2 Rental Payments. Throughout the Term, for the possession and use of the Premises granted herein, Lessee shall pay County a monthly amount equal to the greater of (a) Monthly Minimum Rent or (b) Percentage Rent.

4.2.1. Annual Minimum Rent and Monthly Minimum Rent. Lessee shall pay to County the minimum rent described in this subsection 4.2.1 (subject to adjustment pursuant to Sections 4.3 and 4.4 below) during each year of the Term (the "Annual Minimum Rent"). Annual Minimum Rent shall be payable by Lessee to County on a monthly basis in equal installments of one-twelfth (1/12th) of the Annual Minimum Rent (the "Monthly Minimum Rent"), except that any amounts payable for less than a full calendar year or month shall be prorated based on the number of days in such partial year or month as compared to the total number of days in the full calendar year or month during which such period occurs. During the period from the Effective Date until the earlier of the Completion Date or the Required Completion Date, the Annual Minimum Rent shall be equal to the product of (a) the average of the total Annual Rent payable by Lessee for each of the most recent three (3) year preceding the Effective Date but prior to the date that Lessee caused or permitted any space in the Improvements to become vacant in contemplation of the demolition and redevelopment of the Premises pursuant to Section 5.1 of this Lease, multiplied by (b) .75. During the three year period from and after the earlier of the Completion Date or the Required Completion Date, the Annual Minimum Rent shall be Two Hundred Fifteen Thousand Dollars (\$215,000.00) per year. From and after the third anniversary of the earlier of the Completion Date or the Required Completion Date, the Annual Minimum Rent shall be as set forth in Sections 4.3 and 4.4 below.

4.2.2. Percentage Rent. For the purposes of this Lease, "Percentage Rent" for any given month or year shall be defined as the sum of the amounts set forth in this Section. Gross Receipts (as defined herein) from each transaction, sale or activity of Lessee and/or any sublessee shall be reported under one or more of the following percentage categories, as applicable. It is understood that Article 3 of this Lease provides for the Permitted Uses of the Premises and that the percentage categories listed below are not all applicable to this Lease and are in no way intended to expand or modify the Permitted Uses. Director, by Policy Statement and with the approval of Lessee, Auditor-Controller and County Counsel, has interpreted and may further interpret the percentage categories as set forth in this subsection 4.2.2, with such determinations and interpretations to be a guideline in determining the appropriate categories. Within fifteen (15) days after the close of each and every calendar month of the term hereof, Lessee shall file a report of Gross Receipts and pay to County a sum equal to the total of the following percentages for said previous month, less the amount of monthly installment of minimum rent paid for said previous month as provided herein:

(a) TWENTY FIVE PERCENT (25%) of Gross Receipts or other fees for the rental or use of boat slips, anchorages, moorings, dockside storage space, and such other facilities and services ancillary thereto as are generally provided in common to tenants thereof, including receipts obtained from persons who live on their boats; provided, however, that Percentage Rent from dockside gear lockers shall be TWENTY PERCENT (20%) of Gross Receipts therefrom;

(b) TWENTY FIVE PERCENT (25%) of Gross Receipts from the rental or other fees charged for the use of dry storage facilities, landside storage space, boats, motors, tackle, recreational equipment, tools, equipment, launch and retrieving of small boats and from the sale of live bait; provided, however, that Percentage Rent from landside gear lockers shall be TWENTY PERCENT (20%) of Gross Receipts therefrom;

(c) TEN AND ONE-HALF PERCENT (10.5%) of Gross Receipts or other fees charged for the occupancy of structures and other facilities including but not limited to (1) apartments, (2) hotel and/or motel accommodations, (3) house trailers, (4) meeting rooms, and (5) rental of land and/or water or facilities for activities not otherwise provided for in this Section such as but not limited to television and/or motion pictures;

(c1) TWELVE PERCENT (12%) of Gross Receipts or other fees charged for the occupancy of (1) offices utilized for banking, financial or investment activities, internal clerical or administrative activities, business enterprises, real estate and insurance brokerage, legal, medical, engineering, travel agencies, yacht club purposes, or similar uses; or (2) restaurants, stores, shops, or other commercial establishments; provided that, except as provided in subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this subsection (c1) if the Gross Receipts from the operation of such businesses are required to be reported under other subsections of this Section;

(d) [INTENTIONALLY BLANK] _____ PERCENT (___%) of Gross Receipts from the sale of new or used boats, boat trailers, house trailers and trailer cabanas including credits for used items taken in trade as part payment for new items, as reflected in the bill of sale. However, the trade-in allowance for such used item taken in trade may be deducted from the sale price of said used item, provided said used item is sold within one hundred twenty (120) days of the date of the bill of sale which established said trade-in allowance;

(e) TWENTY FIVE PERCENT (25%) of commissions or other fees earned from boat brokerage, car rental agencies, marine insurance commissions where the sale of insurance is conducted in conjunction with boat sales and/or boat brokerage, laundry and dry cleaning commissions and other similar activities where earnings are normally on a commission basis when said activity is approved in advance by Director;

(f) FIVE PERCENT (5%) of Gross Receipts received by Lessee or sublessee, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee, from service enterprises, including, without limitation, cable, internet, satellite, telecommunication, telephone and other utility services, and valet parking services;

(g) SIX PERCENT (6%) of Gross Receipts received by Lessee or sublessee, or TWENTY PERCENT (20%) of any commissions or fees collected from commercial boating activities including, but not limited to, charter boat, bareboat charters and sportfishing boats;

(h) FIVE PERCENT (5%) of Gross Receipts received by Lessee or sublessee or TWENTY-FIVE PERCENT (25%) of any commissions or other fees collected for the installation and/or operation of coin-operated vending or service machines, including pay telephones;

(i) TEN PERCENT (10%) of Gross Receipts from the operation of a bar, tavern, cocktail lounge, discotheque, night club or other facilities engaged primarily in the on-premises sale of alcoholic beverages except as provided for in subsection (j);

(j) FOUR PERCENT (4%) of Gross Receipts from the operation of any restaurants, restaurant/cocktail lounge combination, coffee shops, beach and theater food facilities, except that Gross Receipts from facilities established and operated as a take-out food operation shall be reported under subsection (s); a "take-out food operation" shall mean a restaurant or other food operation a majority of the Gross Receipts from which are derived from the sale of food or beverages to be consumed off-site;

(k) Intentionally omitted;

(l) Intentionally omitted;

(m) FIFTEEN PERCENT (15%) of Gross Receipts from club dues, initiation fees, and assessments, except that separate assessments for capital improvements may be exempted; provided that to qualify for such an exemption Lessee must comply with the "Criteria for Eligibility for Exemption of Special Assessments from Gross Receipts" issued by the Director;

(n) [INTENTIONALLY BLANK] _____ PERCENT
(__%) of Gross Receipts or other fees charged from the operation of sightseeing boats, tour boats or water taxis;

(o) Intentionally omitted;

(p) [INTENTIONALLY BLANK] _____ PERCENT
(__%) of Gross Receipts or other fees charged by authorized boat repair yards,

including repair, painting, tugboat, salvage and boat pump-out services and similar activities;

(q) FIVE PERCENT (5%) of Gross Receipts of cover charges or other fees charged for admission to facilities featuring entertainment, excluding movie theaters, whose Gross Receipts shall be reportable under subsection (s);

(r) TWENTY FIVE PERCENT (25%) of Gross Receipts from parking fees, except that (1) parking fees or charges, if any, which are collected in conjunction with an activity the Gross Receipts from which are required to be reported in a percentage category higher than twenty five percent (25%) shall be included in Percentage Rent at such higher percentage; and (2) valet parking charges, fees and tips shall not be included in Percentage Rent under this subsection, but instead shall be included in Percentage Rent under subsection (f) above;

(s) FIVE PERCENT (5%) of Gross Receipts from the sale of miscellaneous goods and services consistent with the Permitted Uses but not specifically provided for elsewhere in this Section;

(s1) FIVE PERCENT (5%) of the Gross Receipts from the operation of all stores, shops or boutiques selling items at retail; and,

(t) Notwithstanding the foregoing, and notwithstanding the provisions of subsection (m) of this subsection 4.2.2, the percentage of Gross Receipts payable from club dues, initiation fees, and assessments shall be TEN PERCENT (10%) for so long as Lessee is in compliance with its "Public Service Plan". For the purposes of this subsection, compliance with its "Public Service Plan" shall mean, for any calendar year or portion thereof, that (1) Lessee has submitted to Director no later than January 15 of such year, and Director has approved, satisfactory evidence that Lessee has expended in the prior calendar year an amount no less than five percent (5%) of Gross Receipts payable from club dues, initiation fees, and assessments toward public service programs and expenditures which have been approved by Director and which may include Lessee's costs of compliance with the terms of Section 3.9 hereof. Such Public Service Plan shall additionally set forth in detail Lessee's plans, arrangements and intention to comply with the provisions of Section 3.9 of this Lease for such calendar year, together with (i) a Lessee's written certification that it has complied with the terms of Section 3.9 of this Lease and has fully implemented its Public Service Plan, as approved by Director, for the prior calendar year and (ii) Lessee's proposed expenditures of no less than five percent (5%) of Gross Receipts payable from club dues, initiation fees, and assessments toward public service programs in the current calendar year, to the extent that Lessee desires to avail itself of the percentage rent reduction in this subsection 4.2.2(t). In the event that Director disapproves Lessee's Public Service Plan or otherwise determines that Lessee is not in compliance with the requirements of its Public Service Plan or Section 3.9 of this Lease, or Lessee fails to provide Director with adequate

documentation evidencing Lessee's expenditures or compliance with the prior year's Public Service Plan, which failure is not remedied within thirty (30) days after written notice from Director to Lessee, the Percentage Rent applicable to the foregoing income category shall be increased by FIVE PERCENT (5%) from and after the first day of the first month after the date upon which Director determines Lessee was no longer in compliance with its Public Service Plan until compliance is reestablished to the satisfaction of Director. Nevertheless, Lessee's failure to comply with the requirements of its Public Service Plan (other than with respect to the requirements of Section 3.9) shall not constitute an Event of Default hereunder.

(u) The specific percentages set forth above apply to those Permitted Uses of the Premises which are applicable as of the Execution Date. Where a specific percentage in the foregoing schedule has not been provided, then, concurrent with County or Director's approval of a specific additional or related use, Director shall establish the specific percentage to be applied to such additional or related use. Such percentage shall be the greater of (1) the average percentage rent received by County with respect to that category of activities within Marina del Rey, California at the time of approval of the additional or related use, and (2) the most recent agreement by County, whether by arbitration or otherwise, with respect to the appropriate percentage to be applied to that use. The percentage rent for the related use as determined by Director shall remain in effect until the next Renegotiation Date.

4.2.2.1. Other Activities. If Director or Lessee determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor. If Director and Lessee cannot agree upon such reasonable minimum monthly payment, the matter shall be resolved by arbitration as provided in Article 16 hereof.

4.2.2.2. Accounting Records and Procedures. Lessee agrees to and shall comply with, and shall cause all of its sublessees, licensees, permittees and concessionaires to agree to and comply with, the recordkeeping and accounting procedures, as well as the inspection and audit rights granted to County, set forth in Article 14 of this Lease.

4.2.2.3. Gross Receipts. Except as herein otherwise provided, the term "Gross Receipts" as used in this Lease means all money, cash receipts, or other things of value, including but not limited to gross charges, sales, rentals, common area maintenance payments, operating expense reimbursements, fees and commissions made or earned by Lessee and/or all its assignees, Sublessees,

licensees, permittees or concessionaires, whether collected or accrued from any business, use, occupation or any combination thereof, originating, transacted, or performed in whole or in part, on the Premises, including but not limited to rentals, the rendering or supplying of services and the sale of goods, wares or merchandise.

(i) Except as otherwise set forth herein, there shall be no deduction from Gross Receipts for any overhead or cost or expense of operation, such as, without limitation, salaries, wages, costs of goods, interest, debt amortization, rent credit, collection costs, discounts from credit card operations, insurance and taxes.

(ii) Gross Receipts shall not include direct taxes imposed upon and collected from the consumer, such as, without limitation, retail sales taxes, excise taxes, or related direct taxes paid periodically to a governmental agency accompanied by a tax return statement.

(iii) Gross Receipts reported by Lessee and its Sublessees, assignees, licensees, Lessees and permittees must include the usual charges for any services, goods, rentals or facilities provided by Lessee or its Sublessees, assignees, licensees, concessionaires or permittees. Bona fide bad debts actually accrued by Lessee for amounts owed by subtenants, assignees, licensees, concessionaires or permittees may be deducted from Gross Receipts to the extent that such amounts have been previously reported as Gross Receipts; however, there shall be no deduction for bad debts based on past experience or transfer to a bad debt reserve. Subsequent collection of bad debts previously not reported as Gross Receipts shall be included in Gross Receipts at the time they are collected. Notwithstanding anything to the contrary contained herein, Lessee shall be permitted to make monthly payments of Percentage Rent using the cash method of accounting to determine Gross Receipts, provided that Lessee provides County with an annual reconciliation of its cash basis determination of Gross Receipts to the accrual method (together with payment of any additional Percentage Rent due).

(iv) Gross Receipts shall not include any of the following items:

a. goods returned to suppliers or which are delivered for resale (as opposed to delivery) to another retail location or to a warehouse or to any retailers without profit to Lessee or Sublessee, where such returns or deliveries are made solely for the convenient operation of the business of Lessee or Sublessee and not for the purpose of consummating a sale made in, about or from the Premises;

b. an amount equal to the cash refunded or credit allowed on merchandise returned by customers and accepted by Lessee or Sublessee, or the amount of cash refunded or credit allowed thereon in lieu of Lessee's or Sublessee's acceptance thereof, but only to the extent that the sales

relating to such merchandise were made in, about or from the Premises; provided that whenever Lessee or Sublessee accepts a credit slip as payment for goods or services, the amount of credit shall be included in Gross Receipts;

c. sales of fixtures, equipment or property which are not Lessee's or Sublessee's stock in trade;

d. receipts from insurance claims other than rental interruption or business interruption insurance;

e. interest earned by Lessee or Sublessee on funds arising from the Premises or the use thereof, deposited or maintained by Lessee or Sublessee in banks or similar financial institutions;

f. the Cost of Sublessee's submetered electricity, provided (1) each Sublessee's obligation to reimburse Lessee for such Sublessee's electrical charges is separate and apart from such Sublessee's obligation to pay rent for its occupancy of the Premises; (2) the reimbursed sum is in an amount equal to the Cost of the Sublessee's electricity; and (3) the receipt is actually credited against the cost of the Sublessee's electricity. For the purpose of the foregoing sentence, the "Cost" of the Sublessee's electricity shall mean the actual costs incurred by Lessee, exclusive of overhead and general and administrative expenses, in paying the portion of the respective utility's electric bill that is allocable to the Sublessee based on such Sublessee's submetered consumption of electricity, and in paying the portion of any third party submeter reading and service charge to each submeter that is actually read and a direct allocation of the submeter service charge to each such submeter that is serviced. County shall have the right to approve all submeters and to challenge the legitimacy or amount of any Cost, and all disputes regarding such County approvals or challenges, if not resolved by the parties within thirty (30) days after notice to Lessee of such disapproval or challenge, shall be resolved by arbitration pursuant to Article 16 of this Lease.

4.2.2.4. Excess Payments Credit. If rent payments actually made by Lessee in a particular Lease Year exceed the total rentals actually due for that year as computed on an annual basis at the end of each Lease Year, Lessee shall be permitted to credit that excess amount ("Excess Percentage Rent Payment") against the succeeding monthly installments of Percentage Rent otherwise due under this subsection 4.2.2 until such time as the entire Excess Percentage Rent Payment has been recouped. If Lessee makes an Excess Percentage Rent Payment in the final Lease Year of the Term, County shall refund such amount to Lessee within thirty (30) days of its discovery and verification of such overpayment.

4.2.2.5. Effect of Sublessee, etc. Doing Business. Except as specifically provided to the contrary in this Lease, where a Sublessee, licensee, or permittee is conducting a business or engaged in any use or occupation or any combination